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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-54

MOORE BUSINESS FORMS, INC., *Petitioner,*

v.

UARCO INCORPORATED, *Respondent.*

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Petitioner, Moore Business Forms, Inc., respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit in its cause numbered 18,303 entered on March 30, 1971.

OPINIONS BELOW

The opinion of the Court of Appeals in this cause is set forth in the appendix to this petition commencing at page 1a; it has not yet been officially

reported, but has been unofficially reported at 169 USPQ 263.

The opinion of the District Court is reported at 306 F. Supp. 369 and is reproduced in the appendix hereto commencing at page 12a.

JURISDICTION

The Judgment of the Court of Appeals was entered March 30, 1971. Timely petitions for rehearing and for rehearing *en banc* were denied by Order dated April 27, 1971. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1). The basis of jurisdiction in the District Court was 28 U.S.C. §§ 1332 and 1338.

QUESTIONS PRESENTED

Having virtually determined by its decision in *Blonder-Tongue Laboratories, Inc.* v. *University of Illinois Foundation,* 402 U.S. —— (No. 338—October term, 1970, decided May 3, 1971), that patent infringement actions will be initiated first in highly pro-patent circuits, such as the Seventh Circuit, should not this Court take advantage of the extremely simple subject matter of the present case to correct adoption by that circuit of an inconsistent and lower standard of non-obviousness than that adopted by other circuits?

Subsidiary questions are whether:

A. The issue of obviousness is resolved by whether the disclosures of two prior references can be physically combined, or whether the test is that defined by § 103 of 35 U.S.C., i.e., whether the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art.

B. The issue of obviousness is resolved by whether a suggestion for the combination of the disclosures of two prior references must be found in one of those references, or whether the test is that defined by § 103 of 35 U.S.C., i.e., whether the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.

C. Commercial success of an entire product is sufficient to prove that secondary consideration, or whether the commercial success need be attributed to the alleged invention patented.

In each of the above instances the Court of Appeals for the Seventh Circuit decided that the first statement of the law is correct, in utter disregard of 35 U.S.C. § 103 in subsidiary questions A and B, and in direct contradiction and conflict with the prior statements of this Supreme Court in question C.

CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

The Constitutional provision and statute involved are:

Constitution of the United States, Article I, Section 8:

"The Congress shall have Power * * *

"To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; * * * "

The Patent Act, 35 U.S. Code, Section 103:

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made."

STATEMENT OF THE CASE

The background of this petition, itself, presents a situation that petitioner believes is unique.

Uarco Incorporated, the respondent here, instituted a patent infringement action against petitioner, Moore Business Forms, Inc., in the United States District Court for the Northern District of Illinois. The subject of the action was U.S. Patent No. 3,104,799, on which Donald J. Steidinger was named as patentee and assignor to Uarco. The subject matter of the patent is exceptionally simple: an assembly of business envelopes. The case was tried to the Court, the Hon. Edwin A. Robson, now Chief Judge of the United States District Court for the Northern District of Illinois, presiding. Judge Robson found the Steidinger patent invalid. Further, he found that it was so clearly invalid as to make the case an exceptional one under 35 U.S.C. § 285 and awarded attorney fees to petitioner Moore Business Forms for the period of time respondent had known of the prior art that invalidated the patent.

Incredibly, the Court of Appeals reversed not only the award of attorney fees but the holding that the

Steidinger patent was invalid. The opinion was written by Senior Judge Duffy. To say the least, there is a strong difference of opinion between the Chief Judge of the District Court and a Senior Judge of the Court of Appeals.

REASONS FOR GRANTING THE WRIT

The patent law has now degenerated to a point where the patent system, when applied by attorneys familiar with the fine art of forum shopping, has become an economic weapon stifling, not encouraging competition. While some recent cases of this Court have been extremely helpful,[1] these cases are only of value if lower courts follow them. While some circuits, most notably the Eighth Circuit, do adhere to the law, the Seventh Circuit has for some reason handed down decisions that indicate it just is not following this Court's edicts. As a result, the Seventh Circuit has been inundated by patent infringement actions, regardless of convenience, and continues to hold valid patents that show but insignificant variations of prior art. Opening a sales office in Chicago by a corporation based anywhere from Maine to California has become an invitation to be subjected to the unique patent opinions of the Seventh Circuit.[2]

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[1] Anderson's-Black Rock v. Pavement Salvage Co., 396 U.S. 57 (1969); Graham v. John Deere Company of Kansas City, 383 U.S. 1 (1966); Great Atlantic & P. Tea Co. v. Supermarket Eq. Corp., 340 U.S. 147 (1950).

[2] This Court's attention is respectfully directed to a petition for writ of certiorari in Sweetheart Plastics, Inc. *et al.* v. Illinois Tool Works, Inc., No. 1528 of the October 1970 term. Petitioners there refer to *The Crisis of Law in Patents*, Kayton, I., Patent Resources Group, Washington, D. C., 1970, and e.g., the fact that the Seventh Circuit since February 1966 when this Court decided Graham, 383 U.S. 1, has held more patents valid than the First, Second, Third, Fourth, Sixth, Eighth and Tenth Circuits *combined*.

It is noteworthy that the sole patent case considered by this Court during the October 1970 term, *Blonder-Tongue Laboratories, Inc.* v. *University of Illinois Foundation,* 402 U.S. —— (No. 338—October term, 1970, decided May 31, 1971), was from a second patent infringement action brought against a customer in the Seventh Circuit after the Eighth Circuit had declared the patent invalid. Predictably, the Seventh Circuit held the patent valid. Unfortunately, *Blonder-Tongue* will accentuate forum shopping and the rush to the Seventh Circuit. Since a patent owner now knows that when one circuit has held his patent invalid, he will be estopped to sue in other circuits, he would certainly be ill advised to bring action first in other than the most favorable circuit.

"Obviousness" is an issue in perhaps 95% of all patent cases. To permit the Seventh Circuit to persist in its own definition, nonconforming to this Court's dictates and the patent statute, is to encourage forum shoppers to persist in commencing costly patent litigation in the Seventh Circuit. Indeed, the lack of uniformity of interpretation of obviousness by the Seventh Circuit has made it impossible for an attorney to advise his client without knowing where the case will be tried, which may not be immediately determinable. It is most respectfully submitted that this Court owes the public a duty of supervision over such incredible decisions as those of the Seventh Circuit so that the public will know which way to turn when harassed by insignificant patents.

This action is believed perfect for this Court's consideration to correct the abuses of the Seventh Circuit and establish uniformity among the circuits. The

subject matter of the patent is a simple business form. The prior art that need be considered is but two patents directed to equally simple subject matter. There are no real questions of fact; no technical expertise is requisite.

THE FACTS OF THE LITIGATION

1. The Patent in Suit.

There is no real difference between the District Court that held the patent in suit clearly invalid and the Court of Appeals, that held the patent valid, with respect to the disclosures of the patent in suit and the prior art. Steidinger disclosed "an assembly having a series of sealed, stuffed envelopes". (claims 1-6 and 10-12, 27a; 3a; and 13a-14a) One of these envelopes is illustrated in Fig 8 of Steidinger below. When the tear strip is removed, the insert or inserts are separated from the envelope and may be extracted.

2. The Prior Art.

U.S. Patent No. 697,971 to Bonnaffon (30a to 35a) illustrates and describes virtually the identical structure as that of Fig. 8 of Steidinger. Below, in Fig. 10 of Bonnaffon, the envelope is illustrated with its tear strip intact; in Fig. 11 it is shown after the tear strip has been removed and the insert partially extracted.

The Court of Appeals recognized the identicality of Bonnaffon and the patent in suit with respect to a single envelope, saying at 6a: "Likewise, a single envelope construction with a possible inner envelope enclosed and utilizing a single tear strip was avail-

able in the folded envelope of Bonnaffon." The similarity will be evident below.

Fig. 8 of Steidinger

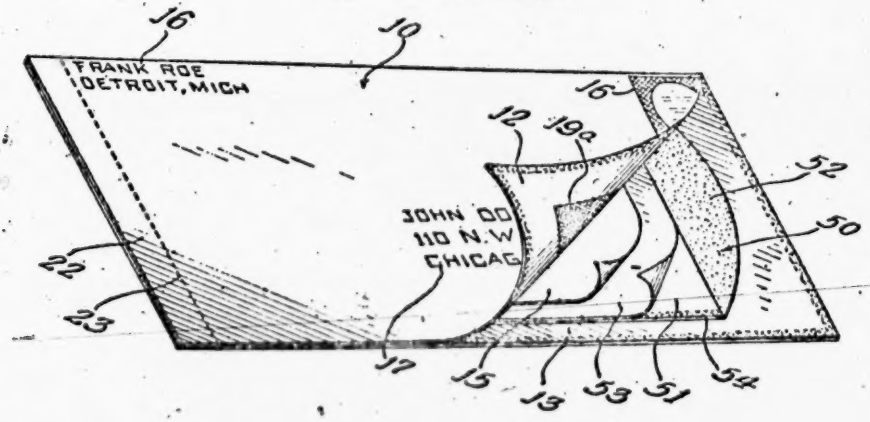


Fig. 10 of Bonnaffon

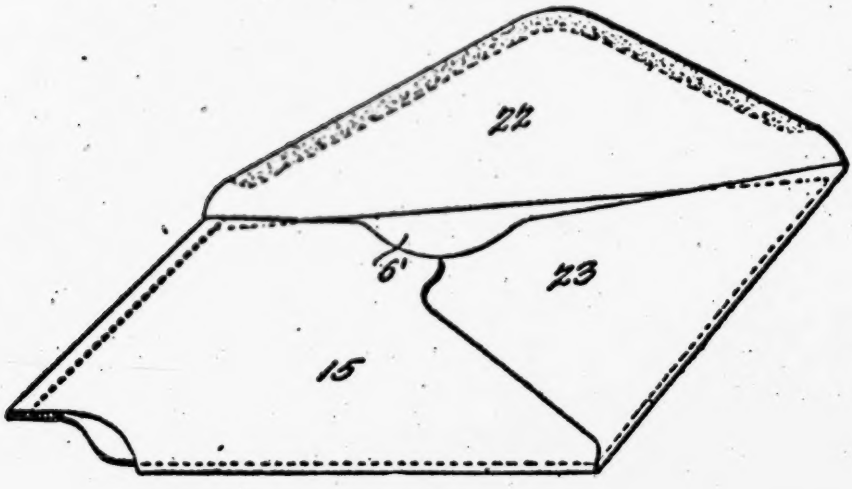
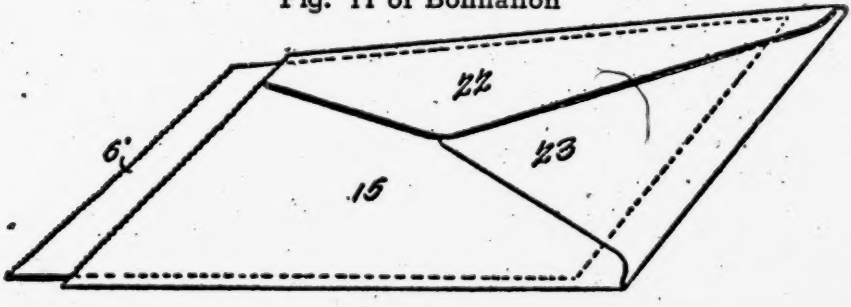


Fig. 11 of Bonnaffon



Since the patent in suit claimed "an assembly" of these envelopes, which Bonnaffon did not show, another reference, U.S. Patent No. 2,148,886 to Wanser (36a to 41a), was also referred to by the District Court. Immediately below are Fig. 2 of Steidinger and Fig. 1 of Wanser, both of which show assemblies of stuffed sealed envelopes.

Fig. 2 of Steidinger

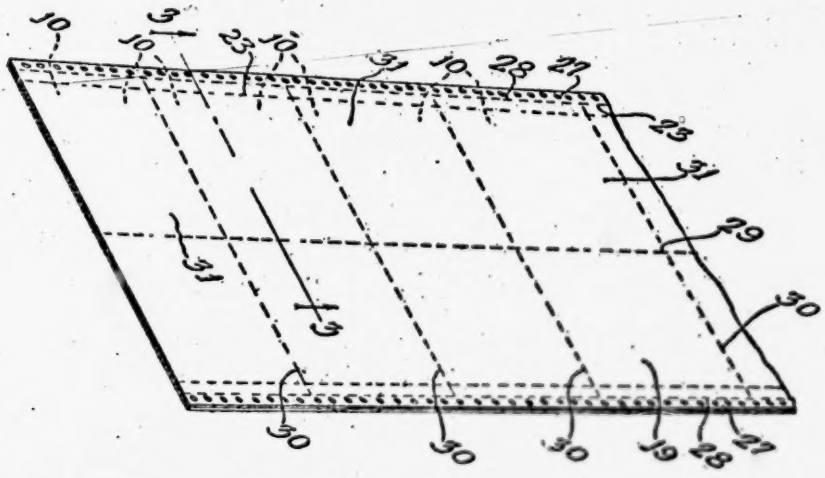
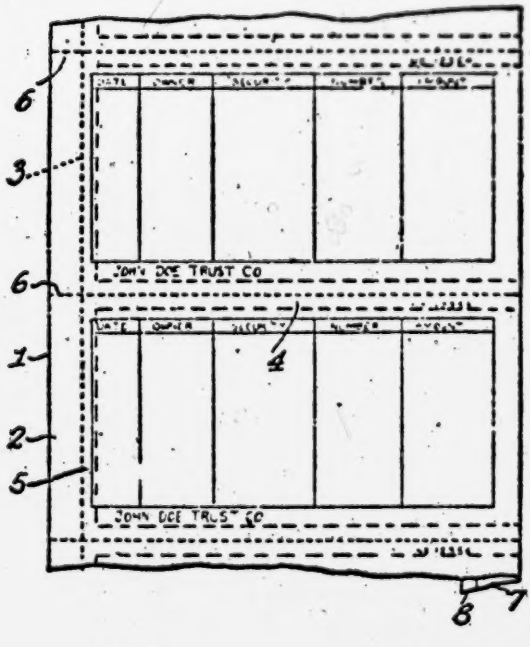


Fig. 1 of Wanser



Again, the Court of Appeals recognized that it was not new to have assemblies of envelopes, stating at 6a:

> "Under the prior art it is true that a continuous series of sealed, stuffed envelopes with possible inserts enclosed and printed by means of spot carbons was available in the Wanser patent."

3. The District Court Decision.

What was new in the Steidinger patents still defies belief and Chief Judge Robson, following *Graham* and 35 U.S.C. § 103 to the letter, held plaintiff-respondent should have discontinued the action as soon as it saw the Bonnaffon patent. Judge Robson held: "The plaintiff should not have persisted in asserting its clearly invalid claims, thereby causing the defendant the expense of trial." (20a) He awarded attorney fees to defendant-petitioner.

4. The Court of Appeals Decision.

A. Obviousness.

The Seventh Circuit found that a "combination" of Bonnaffon and Wanser would not have been obvious because there was (1) no suggestion in either reference patent that the combination be made, and (2) the disclosures of the references could not easily be physically combined. The whole idea of a "combination of references" is an antique relic of Patent Office law. Under § 103 the test is whether the subject matter as a whole would have been obvious. Possibly the Court of Appeals envisaged combining references in the manner of a jigsaw puzzle where each piece must fit together and a suggestion found in the puzzle directions as to where to put each new piece. This concept is so alien to § 103 and this Court's

recent decisions in *Great A & P, Graham* and *Anderson's Black Rock,* as to be worthy of no consideration. Apparently the Senior Judge of the Seventh Circuit was familiar with some old Patent Office law which has now been completely repudiated by the Patent Office, itself, of necessity.[3] [4]

B. Commercial Success.

The Court of Appeals relied heavily on commercial success, holding that commercial success need not be shown to be due to the patented structure, but "[t]he important thing is that the entire improved product was a success commercially, and we feel that the evidence should have been considered in this light." (11a) This concept is directly contrary to the decision of the Supreme Court in *Jungersen* v. *Ostby & Barton Co.,* 335 U.S. 560 (1949), and to prior decisions of the Seventh Circuit.[5] This sets a terribly dangerous precedent. If commercial success alone—without connection to the patent in suit—makes for validity, a good advertising agency is the best advocate in a patent cause in the Seventh Circuit.

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[3] No suggestion is required in the references: *In re* Rosselet, 347 F.2d 847 (C.C.P.A. 1965); *In re* Bodley, 426 F.2d 390 (C.C.P.A. 1970) and many other cases.

[4] A physical combination of disclosures need not be made: *In re* Richman, 424 F.2d 1388 (C.C.P.A. 1970); *In re* Andersen, 391 F.2d 953 (C.C.P.A. 1968), and many other cases.

[5] Schreyer v. Chicago Motocoil Corporation, 118 F.2d 852 (7th Cir. 1941).

CONCLUSION

There must be some order made out of the chaos of the patent law, which should not be an American version of Soviet roulette. Now is the time to lay down clear guide lines, particularly to the Seventh Circuit, to stop the rush of patent litigation to that circuit. Patent infringement actions, without some firm basis of law by which they can be judged, encourage more and more litigation on patents granted by the well-known magnanimity of the U.S. Patent Office. It is respectfully submitted that, on certiorari, this Court can utilize this very simple case to help the consuming public, inventors, and the patent bar.

Respectfully submitted,

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APPENDIX

APPENDIX

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 18303 SEPTEMBER TERM 1970—JANUARY SESSION 1971

UARCO INCORPORATED, a corporation, *Plaintiff-Appellant,*

v.

MOORE BUSINESS FORMS, INC., a corporation,
Defendant-Appellee,

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

MARCH 30, 1971

Before DUFFY, *Senior Circuit Judge,* FAIRCHILD and PELL, *Circuit Judges.*

DUFFY, *Senior Circuit Judge.* Plaintiff (Uarco) brought this suit for the alleged infringement of its United States Patent No. 3,104,799 (799) which was issued to Donald J. Steidinger on September 24, 1963 with eighteen claims. The defendant, Moore Business Forms, Inc. (Moore) counterclaimed for a finding of invalidity and of non-infringement.

Moore filed a motion for summary judgment, alleging invalidity of the patent in suit as being obvious in view of prior art patents to Bonnaffon, No. 697,971; Wanser, No. 2,148,886 and Sherman, No. 2,257,766. The District Court denied this motion stating: "A patent such as this, which is designed for use in complex electrical processing machines, should not be declared invalid on a motion for summary judgment just because it has some features in common with a 1902 [Bonnaffon] method of using one sheet at a time to make an envelope structure."

However, at the conclusion of the trial, the District Court found the patent in suit invalid as being obvious

in view of the prior art. The Court also awarded attorney fees to Moore for a period commencing with the date when Moore notified Uarco of the existence of Bonnaffon Patent No. 697,971.

Envelope assemblies manufactured and sold by defendant Moore under the name "SPEEDIMAILER" were accused by plaintiff of infringing claims 3, 5 and 10 of the patent in suit. Those manufactured and sold under the Suburban Trust name were accused of infringing claims 1 to 6, 10 to 13 and 18. Claim 13 was abandoned after the trial. It recited a single unit of the series set forth in claims 1 to 6 and 10 to 12.

The envelope assemblies alleged by plaintiff to be made in accord with its patent (799) have been sold by it to the public under the name "DATA-MAILER." This product "DATA-MAILER" followed substantially the disclosure of figures 1 through 4 of the (799) patent in suit.

Sales grew rapidly. There was no other such product on the market with which it competed. By 1968, annual sales of "DATA-MAILER" reached about three and a half million dollars.

Defendant Moore Business Forms, Inc. is the largest single manufacturer of business forms in the United States. In March 1965, the defendant's Products Manager wrote to his Company officials that it was important for Moore to come up with something to compete with Uarco's new product [DATA-MAILER]. Eventually defendant began producing its "SPEEDIMAILER" which did successfully compete with the plaintiff's product.

The field or area involving the claimed invention is that of continuous business forms. In actual use, business forms necessarily have several different parts. These include stationery sheets of various kinds and shapes which are intended to be transmitted through the mails to various recipients. Bills, premium notices, invoices or university grades are among the uses for such forms.

Envelopes are a required part of the business form assembly and are used both for enclosing the record sheets or forms for movement through the mails and also, in many instances, as a return envelope to be sent out with the original mailing.

It is essential to apply certain personal and individualized information to both the carrying envelope, the sheet material contained inside, and, in many cases, to the return envelope as well. Prior to the use of computers, tabulators and the like, this type of business mailing was carried out piece by piece. However, with the advent of the automated machines, effort was made to have the personalized information applied to the form sheets as a continuous strip or ribbon. But even when this was done, envelopes still had to be individually addressed and stuffed. This was so because each envelope still existed as a separate entity, constructed from a single folded sheet and thus difficult to be adapted to continuous strips.

Efforts were made to attach the individual envelopes to a long carrier strip, but this operation still ultimately necessitated hand stuffing and sealing. Attempts were then made to substitute layers of plies with spot carbons and tear strips for the individually stuffed and sealed envelopes. These plies were constructed in continuous strips with the contents of each envelope sealed inside. The spot carbons allowed a single printing for both the outside master sheet and an internal information sheet. Both the Wanser Patent and the (799) patent in suit dealt with this type of operation.

Specifically, the (799) or Steidinger patent describes "an assembly having a series of sealed stuffed envelopes." Steidinger utilizes continuous form stationery assemblies of individually sealed envelopes, each containing inserts which are to be imprinted by means of spot carbons while enclosed in the sealed envelopes, and manufactured from super-imposed ply strips. The top ply comprises the business record and the underlying plies form the envelopes and their contents.

In the Steidinger assembly, the envelopes have a single tear strip, usually located on the left edge, by which the recipient opens the envelope. A thumb tab indentation allows him to remove the contents easily. Before being opened, these same tear strips anchor the contents of the envelope in place so that all forms are lined up in proper registration for printing. This single tear strip arrangement is accomplished in Steidinger by pre-cutting the insert strip in spaces corresponding to the top and bottom of the outer envelope, creating an insert web structure which allows the outer envelope to be glued together, while permitting up to three margins of the insert to be freed for easy opening. It is this tear strip operation adapted to continuous strips which the Patent Office held and which plaintiff asserts here, distinguishes Steidinger from the prior art.

During prosecution of the application of the Steidinger patent in suit, the Patent Office cited the Wanser and Sherman patents. However, after recognizing what it considered to be the differences between the claimed construction and the disclosure of the prior art, the Patent Office issued the patent with the eighteen claims in the exact same form as when originally filed.

Three patents are prior art to the Steidinger patent.

Sherman (October 7, 1941).

Sherman covered a "series connected envelope and check" which utilized spot carbons to imprint both a master and internal sheets as well as portions of an outer envelope. The envelope in Sherman was positioned in a pocket on the underside of the assembly and required hand stuffing and sealing. Sherman disclosed feed holes on the assembly strips, for adaptation to tabulators or computors.

Wanser (February 28, 1939).

Wanser disclosed a continuous series of sealed, stuffed envelopes with the contents contained therein. Like Steidinger, the series was connected by perforations. Unlike

Steidinger, there were tear strips on all four sides of the envelope all of which were required to be removed in order for the contents to be extracted. There was no cut out web insert ply structure in Wanser.

Bonnaffon (April 22, 1902).

Bonnaffon deals with a single envelope construction with a possible insert enclosed. Bonnaffon always folds one sheet of paper. By means of folds in the single sheet, the internal envelope or insert sheet (but not both) may be placed inside the outer envelope. As in Steidinger, one tear strip both holds the inner envelope in place and allows for its removal when torn. Unlike Steidinger and Wanser, Bonnaffon is not constructed out of pasted plies, and due to its folding construction, it is submitted, could not be adapted to continuous strips.

Bonnaffon was not cited as prior art by the Patent Office when application for the patent in suit was made in 1961. In 1969, Bonnaffon was cited by defendant Moore to plaintiff. At that time, Bonnaffon was found to be classified in Class 229, Subclass 72 (Compartment Envelopes). That same subclass was among those searched in 1961 when the patent in suit was originally prosecuted, but it is not definitely known whether Bonnaffon was in that subclass at that time.

With these facts in mind, we turn to the ultimate issue of obviousness and conclude that the lower court erred in this respect. We hold that the Steidinger patent complied with the required standards of non-obviousness set forth in 35 U.S.C. § 103[1] and discussed in *Graham* v. *John*

[1] A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Deere, 383 U.S. 1 (1966). The Court in *Graham* stated the analytical steps to be taken in deciding this question:

> "Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy." (383 U.S. at pages 17-18).

Under the prior art it is true that a continuous series of sealed, stuffed envelopes with possible inserts enclosed and printed by means of spot carbons was available in the Wanser patent: Likewise, a single envelope construction with a possible inner envelope enclosed and utilizing a single tear strip was available in the folded envelope of Bonnaffon. But, under the prior art, no single invention existed which combined the single tear strip construction of Bonnaffon with the continuous series of pasted plies contained in Wanser. Wanser involved four tear strips and Bonnaffon involved one envelope construction. Sherman, although containing feed holes and spot carbons for a series connected envelope with possible inserts, still involved hand sealing as well as removal of envelopes from their carrier pockets. Under the prior art, the only way in which individually folded envelopes could be placed in a continuous series for automated use was by long carrier strips which were then removed after printing and which still required hand stuffing and sealing. At the time of Steidinger's invention, envelopes utilizing the carrier strip method were commercially available in the form of PER-

FELOPE and CURTISS 1000. A slight improvement on this method was available in CONVELOPE, which also required hand sealing.

Steidinger differed from the prior art in that it was the first continuous form sealed stuffed envelope assembly which still allowed easy extractability on the part of the recipient by means of the single tear strip device. The District Court held that this result would have been obvious at the time of Steidinger's invention by merely combining Wanser and Bonnaffon. We do not think that such a combination is suggested by Wanser and Bonnaffon. It is our view that Steidinger contained a specific unique contribution in the form of the cut-out web insert ply structure which allowed the contents of an envelope to be held in place for printing and yet to be easily extracted with a single tear strip. Wanser did not contain or suggest such a cut-out web structure but rather disclosed a pasting together of all plies on all margins with four required tear strips. There is no question but that the single tear strip of Steidinger was a great improvement over Wanser which had required an awkward and time-consuming tearing of all four marginal strips before any contents could be extracted.

It also is clear that nothing in Bonnaffon's folded structure for single envelopes suggests Steidinger. Bonnaffon always dealt with a single envelope with one possible insert whereas Steidinger piled up as many plies as were necessary for several inserts. Each Bonnaffon envelope, moreover, was created by a folded structure and such a folded structure could not be adapted to a continuous series, while Steidinger was specifically designed for such series. In fact, the only means by which the folded envelope construction of Bonnaffon might have been so adapted was by the old carrier strip method, which was avoided by Steidinger and, in any case, would have required hand stuffing and sealing. We note also that even each individual envelope of Bonnaffon might not fully accomplish

the Steidinger result since Bonnaffon provided for one insert which could be either an envelope or an information sheet, but not both.

We note also that nothing in the Sherman patent suggested the unique insert ply structure of Steidinger. Sherman required removal of envelopes from the carrier pockets and also required hand sealing. Clearly the Steidinger construction was a significant improvement on Sherman.

Although the District Court made no specific finding on the level of ordinary skill in the pertinent art in this case, we find that such a person would have been one familiar with business form envelope assembly design. Both plaintiff and defendant presented witnesses who could be deemed so skilled in the art.

We conclude that the result of the Steidinger manifolding assembly was a new and useful invention which had an "effect greater than the sum of the several effects taken separately." *Anderson's-Black Rock* v. *Pavement Salvage Co.*, 396 U.S. 57 (1969); *Illinois Tool Works, Inc.* v. *Sweetheart Plastics, Inc.*, (7 Cir., January 21, 1971, Slip Opinion No. 18215). Furthermore, we hold that Steidinger's cut-out structure for insert plies was a new and useful contribution which resulted in the first practical, presealed, prestuffed envelope in a continuous manifolding assembly and yet which had easy extractability. The structures of Bonnaffon and Wanser could not be readily combined to produce Steidinger. We feel that the District Court's finding that Wanser's four margin tear strips could merely be replaced by the single margin tear strip of Bonnaffon is best answered by our statement in *Welsh Company* v. *Chernivsky*, 342 F.2d 586 (7th Cir., 1965): "We think the root of the district court's error was in considering Chernivsky's claim 1, . . . against the prior art piece by piece instead of considering the device totally, without properly applying the well-established principle that a combination of old elements in a manner that is un-

obvious to one skilled in the trade and which produces a new and useful result may be patented." (at page 590).

Further supporting our conclusion is the fact that portions of both Wanser and Bonnaffon would have had to be discarded in order to produce a result similar to Steidinger. In the case of Wanser the insert sheet would have had to be discarded and replaced with the cut-out insert ply structures in order to produce the single tear strip result in a continuous series envelope assembly. In the case of Bonnaffon, the entire folded sheet structure for single envelopes would have to be replaced with a series of pasted plies. Even if this could be avoided and the desired result of adapting Bonnaffon to a continuous series could be achieved, an additional sheet would still have to be added for each individual envelope if more than one insert (envelope or information sheet) were contemplated. We have stated that where the parts of the prior art device must be discarded in order to get to the patented invention, then such art does not make the invention obvious under the provisions of 35 U.S.C. § 103. *Ortman* v. *Maass*, 391 F.2d 677 (1968).

We think and so hold that the three references, Bonnaffon, Wanser and Sherman, which were relied upon by the District Court are, in no way, combinable to produce Steidinger's invention. We find that Steidinger's invention fulfilled the nonobviousness criteria of 35 U.S.C. § 103. As there is also no support for finding that the earlier patents anticipated Steidinger, we further find and so hold that there was no anticipation under 35 U.S.C. § 102.

The question of the presumption of validity of the patent in suit has been raised since Bonnaffon was not cited by the Patent Office when the patent was originally prosecuted in 1961. The District Court found that the presumption of validity did not apply to Bonnaffon, citing among other decisions *Appleton Electric Co.* v. *Efengee Electrical Supply Company*, 412 F.2d 579, 581, n. 4. Appellants claim

that the case before us is more akin to *Canaan Products, Inc.* v. *Edward Don & Company*, 388 F.2d 540, at 544, where this Court upheld a finding that, where the patent was currently located in a class and subclass which was one of the classes searched by the examiner, there was "no reason to believe that the . . . patent is not one of the patents studied by the examiner in his search and discarded as not being relevant." Moreover, appellant argues that Bonnaffon was "no more pertinent" than the Wanser and Sherman patents cited by the Patent Office, thus permitting the presumption of validity to continue.

Appellee asserts that the presumption of validity was correctly rejected by the District Court since, in its opinion there is a very good reason to believe that the examiner never looked at Bonnaffon during his search. That reason is, in appellee's opinion, the allegation that claim 13 of the Steidinger patent reads directly on Bonnaffon and accordingly was abandoned when Bonnaffon was discovered. Since it is unlikely that the examiner would have upheld claim 13 had he known that it read directly on the earlier patent, we may assume, appellee argues, that Bonnaffon never was discovered, and that therefore we should not apply *Canaan Products*.

We feel that the presumption of validity as against Bonnaffon is still viable, because Bonnaffon is no more pertinent that the cited prior art as against the seventeen claims of Steidinger now before us. Bonnaffon, as discussed above, dealt with but a single envelope construction and, even if read upon by claim 13, would not be more pertinent to the remaining claims which dealt with a continuous form manifolding envelope assembly. Just as we have held that Bonnaffon could not feasibly be adapted to the continuous form structure, we think it also is likely that the examiner discarded Bonnaffon as not pertinent for that reason. Even if the presumption should be found not to apply, we do not think that factor would compel a different result than we have reached.

We think it is pertinent to note that plaintiff's "DATA-MAILER", manufactured under the Steidinger patent, enjoyed outstanding commercial success. There was much evidence that defendant was extremely concerned over the great favor in the marketplace which "DATA-MAILER" enjoyed so that it finally was forced to produce its "SPEEDIMAILER", the accused infringing product. We think it unfair to attribute "DATA-MAILER'S" commercial success solely to the ease by which it was adapted to computers and other automated devices and to discard such for that reason. The important thing is that the entire improved product was a success commercially, and we feel that the evidence should have been considered in this light.

Attorney Fees.

The decision of the District Court included an award of attorney fees to the defendant. The trial court stated—"The plaintiff should not have persisted in asserting its clearly invalid claims thereby causing the defendant the expense of a trial."

As hereinbefore indicated, the claims of the patent in suit were found by the trial court to be obvious over a combination of the Bonnaffon and Wanser patents. We have held the District Court was in error in that respect.

Here there was no identical structure in the prior art. An award of attorney fees should not be made "in an ordinary typical infringement suit." *Apex Electrical Manufacturing Company* v. *Altorfer Bros. Co.*, 238 F.2d 867 at 874 (7 Cir., 1956). Nor was there, in this case, any vexatious or protracted litigation. *Rex Chain Belt, Inc.* v. *General Kinematics Corp.*, 363 F.2d 336, 348 (7 Cir., 1966). Furthermore, there was no element of bad faith or inequitable conduct either in obtaining the patent or bringing this suit.

The trial court also stated ". . . the plaintiff had been the assignee of the Wanser patent and had previously

manufactured the Wanser structure." The Court was in error in this respect. The record shows plaintiff never made the Wanser structure. In our view, this was not a case where attorney fees should have been taxed against the plaintiff and this would be true had the District Court's finding of invalidity been sustained.

The judgment of the District Court finding the No. 3,104,799 Steidinger patent invalid is reversed. The judgment making an allowance for attorney fees to the defendant also is reversed. The cause is remanded to the District Court for full consideration of the issue as to alleged infringement.

REVERSED AND REMANDED

* * * * * * * * * *

UARCO INCORPORATED, a corporation, Plaintiff,

vs.

MOORE BUSINESS FORMS, INC., a corporation, Defendant.

No. 67 C 1522

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

Nov. 19, 1969.

DECISION ON THE MERITS

Uarco Incorporated brings this action against Moore Business Forms, Inc. for alleged infringement of its patent. The plaintiff seeks injunctive relief and an accounting for damages. The defendant counterclaims for a judgment declaring the plaintiff's patent invalid and, further, that the defendant has not and is not infringing upon the patent

in suit. The jurisdiction of this court is undisputed. After a trial on the merits, this court is of the opinion that judgment should be rendered for the defendant.

The Patent In Suit

United States Patent 3,104,799 was issued on September 24, 1963, as a result of an application filed May 29, 1961, in the name of plaintiff's then Manager of Product Engineering, Donald J. Steidinger.[1] The Steidinger patent discloses continuous stationery generally referred to as a manifold assembly. The continuous manifold assemblies are manufactured from superimposed long strips of paper called plies. A top ply may be a business record. Underlying plies form envelopes with inserts sealed inside. The inserts may be business records or return envelopes or both. The inserts may be imprinted while within the sealed envelopes as the manifold assembly passes through a suitable office imprinting machine, such as a typewriter, tabulator or computer printer, by means of carbon paper or spot carbon. The evidence discloses that the inserts might take the form of premium notices, advertising, bills, or invoices.

The Steidinger patent further discloses that the inserts are attached to the outer sealed envelope along the left-hand margin, but such inserts are unattached to the other three margins of the outer envelope. A tear strip is formed at the left-hand margin of the outer envelope. To open the envelope, the tear strip is simply detached along the left-hand edge of the envelope, and simultaneously the insert is entirely free of the envelope.

The claims of the Steidinger patent asserted against the defendant's accused business forms at trial were 1 to 6, 10 to 13, and 18.[2] Claims 1 to 6 and 10 to 12 are drawn to "an

[1] The patent in suit is hereinafter referred to as the Steidinger patent.

[2] Claim 13 was abandoned by the plaintiff after trial. The impact of this abandonment will be discussed *infra*.

assembly having a series of stuffed sealed envelopes." Claim 13 recites "a stuffed sealed envelope assembly" and claim 18 "an assembly including a stuffed sealed envelope." By testimony of witnesses for both parties, these introductory clauses have been interpreted to mean that claims 1 to 6 and 10 to 12 encompass as the plaintiff's alleged invention a series of envelope assemblies which are attached to each other along perforated lines. Such assemblies are those illustrated in Figures 2 and 7 of the Steidinger patent. Claim 13 recites an envelope assembly which is a *single unit* of the series set forth in claims 1 to 6 and 10 to 12. Such a unit or assembly is illustrated in Figures 1 and 8 of the Steidinger patent. Claim 18 is a hybrid of all the other claims.

The File History Of The Steidinger Patent

During the prosecution of the Steidinger application, the Patent Office rejected all eighteen claims on August 3, 1961. The Patent Office cited as references Sherman United States Patent 2,257,766[3] and Wanser United States Patent 2,148,886.[4] Following this rejection, the patentee filed a letter dated January 16, 1962, and amended on January 19, 1962. Neither the letter nor the amendment made changes in the claims of the Steidinger application. The amendment argued the patentability of the claims and, *inter alia*, pointed out that the difference between the Wanser patent disclosure and the Steidinger claims was the "structural requirement that the insert material have free marginal edges within the sealed envelope and an attaching portion." The Steidinger amendment further stated that "[a]pplicant's claims are all directed to insert material secured within a sealed envelope by an attaching portion with the remainder of the insert material having marginal edges free of the sealed envelope." By such

[3] Hereinafter referred to as the Sherman patent.

[4] Hereinafter referred to as the Wanser patent.

argument, the Steidinger application pointed out to the Patent Examiner the distinction between the disclosure of Wanser and the claims of the Steidinger patent. Specifically, *all margins* of insert matter are attached to the outer envelope according to the disclosure of the Wanser patent, while Steidinger discloses that *only one margin* is so attached. This argument apparently convinced the Patent Examiner that the alleged invention disclosed by the Steidinger application was not invalidated by the Wanser patent. The Patent Examiner made no additional prior art search after this amendment, but allowed the Steidinger application by Notice of Allowance mailed January 28, 1963.

The Invalidity Of The Steidinger Patent

The basic challenge made by the defendant to the validity of the Steidinger patent is that its claims were either directly anticipated by the prior art, or would have been obvious to one having ordinary skill in the art at the time the alleged invention was made. This court agrees. The defendant predicates invalidity on three prior patents: United States Patent 697,971 to Bonnaffon, issued April 22, 1902;[5] the Wanser patent, issued February 28, 1939; and the Sherman patent, issued October 7, 1941. These patents expired seventeen years after their respective dates of issuance, and all were in the public domain when Steidinger developed his alleged invention.

The Bonnaffon, Wanser and Sherman patents are prior art against the Steidinger patent. However, the Bonnaffon patent was not cited by the Patent Office in the course of prosecution of the Steidinger application. Bonnaffon was classified in the United States Patent Office under class 229, subclass 72. Class 229 originated in 1899. The present title of class 229 is "Paper Receptacles." The present titles of subclasses 69, 70 and 72 are "Series Envelopes,"

[5] Hereinafter referred to as the Bonnaffon patent.

"Coupon Envelopes" and "Compartment Envelopes," respectively. The search notes in the File History of the Steidinger patent indicate that on July 31, 1961, the Examiner searched class 229, subclasses 69, 70 and 72. The statutory presumption of validity normally attaching to the issuance of a patent is of no aid to the plaintiff with respect to prior art not cited by the Patent Office. *Appleton Electric Co.* v. *Efengee Electrical Supply Company*, 412 F.2d 579, 581 n. 4 (7th Cir. 1969); *Nova Industrial Corp.* v. *Standard Screw Co.*, 374 F.2d 824, 827 (7th Cir. 1967); *Simmons Co.* v. *Hill-Rom Co.*, 352 F.2d 886, 888 (7th Cir. 1965). *Even one prior art reference not considered by the Patent Office can suffice to overthrow the presumption of validity of an issued patent. T. P. Laboratories, Inc.* v. *Huge*, 371 F.2d 231, 234 (7th Cir. 1966); *Hobbs* v. *Wisconsin Power & Light Co.*, 250 F.2d 100, 105 (7th Cir. 1957), *cert. den.* 356 U.S. 932 (1958).

Because this court concludes that the Steidinger patent is invalid, the question of infringement need not be considered. *Sinclair & Carroll Co., Inc.* v. *Interchemical Corp.*, 325 U.S. 327 (1945); *Master Metal Strip Service, Inc.* v. *Protex Weatherstrip Mfg. Co.*, 169 F.2d 700 (7th Cir. 1948); *Senco Products, Inc.* v. *Fastener Corp.*, 168 F.Supp. 850 (N.D.Ill. 1958).

The Prior Art

The specific embodiments illustrated in the Bonnaffon patent are of an envelope blank folded upon itself to form an envelope having insert material attached at one marginal end only and unattached along its other margins. The insert materials shown in the figures contained in the Bonnaffon patent consist of either an inner envelope or a single insert sheet. Like the Steidinger patent, some of the Bonnaffon figures disclose that the outer envelope has a tear strip along the left-hand margin, the same margin to which the insert matter is attached. The only substantive differences between the Bonnaffon and Steidinger patents are

that the Bonnaffon envelope structure is not constructed from long plies of paper in a series separated by perforations, Bonnaffon does not contain feed holes for processing through computers or tabulators, and Bonnaffon does not disclose means for imprinting the insert material *through* the outer envelope, as does the Steidinger patent by use of carbon paper or spot carbon printing.

The defendant's patent claim expert, Robert E. Burns, a patent attorney with many years of practice, applied claim 13 of the Steidinger patent to Bonnaffon. Taking the parts of claim 13 separately, he read the claim in its entirety on the disclosure of Bonnaffon. After trial, the plaintiff admitted in its proposed findings of fact and conclusions of law that claim 13 is invalid over the prior art. The plaintiff also admits that the only difference between claim 13 and the other claims of the Steidinger patent is that claim 13 is directed to a *single envelope* assembly, as opposed to a continuous series of envelopes, and claim 13 does not define the structural feature of the superimposed continuous plies employed to form the manifold assembly. However, these differences were disclosed by other patents which entered the public domain after issuance of the Bonnaffon patent, but well before Steidinger developed his alleged invention.

The Wanser patent, issued in 1939, was assigned to the plaintiff on July 21, 1953. Entitled "Envelope in Continuous Strip Form," Wanser discloses a continuous series of stuffed, sealed envelope assemblies joined along perforations. The individual envelope assemblies of the series have substantially the same structure as their counterparts in the Steidinger patent except that in Wanser the insert material is attached to the outer envelope along all four of its margins. As discussed *supra*, the Steidinger amendment distinguished Wanser solely on the basis that the insert material of Steidinger was attached along only one of its margins, while Wanser is attached along all four of its margins. Wanser utilizes both carbon sheets and spot

carbon printing in the manner of Steidinger so that the insert material within the envelope may be imprinted while the envelope is in a sealed condition.

The final patent relied upon by the defendant is the Sherman patent, entitled "Series Connected Envelope and Check." The Sherman patent, cited by the Examiner during the prosecution of the Steidinger application, shows feed holes in a continuous series of envelope assemblies. These feed holes were shown by the evidence to be commonplace in the art, and serve to enable processing of the continuous forms through computers and tabulators. Sherman discloses imprinting the face of an envelope simultaneously with an insert sheet by means of transfer material such as carbon spots.

This court finds that the subject matter of the Steidinger patent was obvious to one familiar with the Bonnaffon, Wanser and Sherman patents at the time Steidinger developed his alleged invention, and the patent in suit is therefore invalid pursuant to 35 U.S.C. § 103.[6] The criteria to be applied in adjudging obviousness are threefold: determination of the scope and content of the prior art; ascertainment of the differences between the prior art and the claims at issue, and resolution of the level of ordinary skill in the pertinent art. *Graham* v. *Deere Co.*, 383 U.S. 1 (1966); *Appleton Electric Company* v. *Efengee Electrical Supply Company, supra.* Applying these criteria, this court finds that all of the elements embodied in the Steidinger patent had been previously disclosed in the Bonnaffon, Wanser and Sherman patents. This court further finds that it would have been obvious to one having ordinary skill in the relevant art, with both the Wanser and

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[6] 35 U.S.C. § 103 provides in part that "[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

Bonnaffon patents before him, to replace the four-margined tear strip of Wanser with the single-margined tear strip of Bonnaffon.[7]

The Commercial Success Of The Steidinger Product

The plaintiff presented evidence of the considerable commercial success enjoyed by its product, DATA-MAILER, manufactured according to the teachings of the Steidinger patent. Commercial success may be secondary evidence that an alleged invention is novel and unobvious *where that success is shown to be a result of the allegedly novel elements disclosed in the patent claims. Schreyer* v. *Chicago Motocoil Corp.*, 118 F.2d 852, 857 (7th Cir. 1941); *Carboline Company* v. *Mobil Oil Corporation*, 301 F.Supp. 141, 145 (N.D.Ill.1969). As shown by the file history, the novel aspect of the Steidinger patent claimed over the prior art was its easy open features, i, e., inserts attached to the detachable margin only and free along the remaining margins. The testimony, however, indicated that commercial success was due to the ease with which the plaintiff's product was utilized with data processing equipment, resulting in substantial reductions of man-hours in preparing business mailings. It is uncontroverted that the plaintiff was the first manufacturer of business forms to produce a commercially marketable product incorporating features which were in the public domain for some time. However, the plaintiff did not present any evidence indicating that the commercial success of its product was due to the alleged novel aspect of the Steidinger patent, i. e., the easy open feature. The evidence indicated that continuous manifold

[7] The defendant offered the testimony of one of its employees, Victor Firth, as the mythical "man of ordinary skill" over plaintiff's objection. Although such testimony is relevant and has probative value (see *Felburn* v. *New York Central Railroad Co.*, 350 F.2d 416 (6th Cir. 1965); *Minnesota Mining & Mfg. Co.* v. *Norton Co.*, 280 F.Supp. 674 (N.D. Ohio 1968), this court attributes little weight to such testimony in view of the witness's interest and bias.

assemblies manufactured from superimposed strips of paper suitable for use in computers and tabulators to imprint material sealed inside were commercially available before the alleged Steidinger invention, and were in fact manufactured by the plaintiff in the form of a product called "Convelope." For these reasons, the commercial success of the DATA-MAILER product is of little aid to the plaintiff on the issue of obviousness.

Attorney Fees .

The defendant asks this court to award it reasonable attorney fees pursuant to 35 U.S.C. § 285 incurred by the defendant from April 17, 1968, to the date of entry of the judgment herein. April 17, 1968, is the date on which the defendant apprised the plaintiff of the Bonnaffon patent. The defendant thereafter moved for summary judgment on the basis that the designated claims of the Steidinger patent were invalid over the prior art, including the Bonnaffon patent. The plaintiff successfully resisted the motion by filing affidavits. The plaintiff had the Bonnaffon patent before it and minimally should have admitted, as it did after trial, that claim 13 is invalid because it reads directly on Bonnaffon. The other designated claims differ from claim 13 fundamentally in the respect that they claim a series of assemblies rather than an individual assembly. Such series were known by the plaintiff to have been disclosed by the prior art: the plaintiff had been an assignee of the Wanser patent and had previously manufactured such series of assemblies. The plaintiff should not have persisted in asserting its clearly invalid claims, thereby causing the defendant the expense of trial. The defendant should therefore be awarded reasonable attorney fees from the date when it is clear that the plaintiff became aware of the Bonnaffon patent. See *Clapper* v. *Original Tractor Cab Company*, 270 F.2d 616, 624 (7th Cir. 1959), *cert. den.* 361 U.S. 967 (1960); *Wood Products Development Co.* v. *Oak Flooring Co.*, 267 F.Supp. 193 (W.D.Mo.1966).

Orders

It is therefore ordered that claims 1 to 6, 10 to 12, and 18 of the Steidinger patent be, and they are hereby declared invalid.

It is further ordered that the defendant be, and it is hereby awarded reasonable attorney fees incurred between April 17, 1968, and the date of the entry of this judgment order, as well as costs.

It is ordered that the cause be, and it is hereby dismissed.

/s/. EDWIN A. ROBSON
Judge

November 19, 1969

Steidinger Patent in Suit No. 3,104,799 (PX 1)

Sept. 24, 1963 D. J. STEIDINGER 3,104,799

ENVELOPE ASSEMBLY

Filed May 29, 1961 3 Sheets-Sheet 1

FIG. 1.

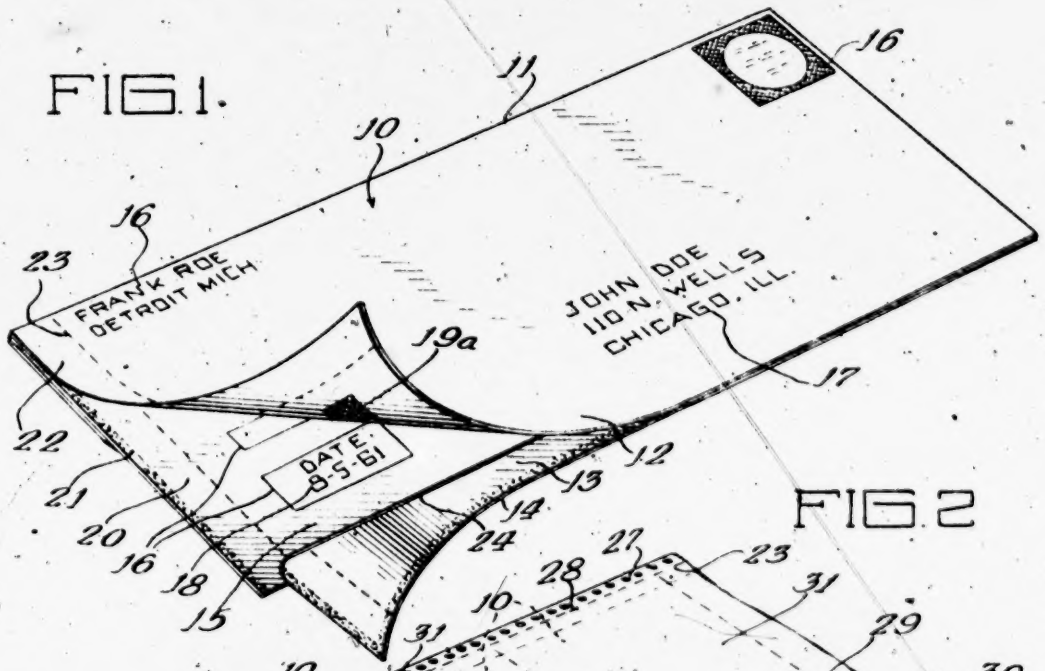


FIG. 2

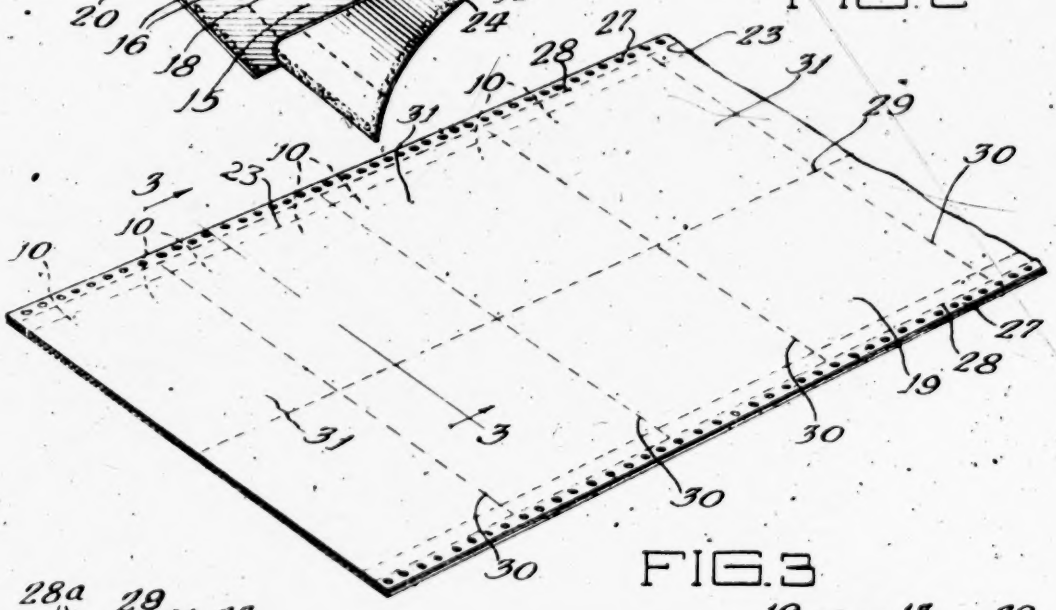
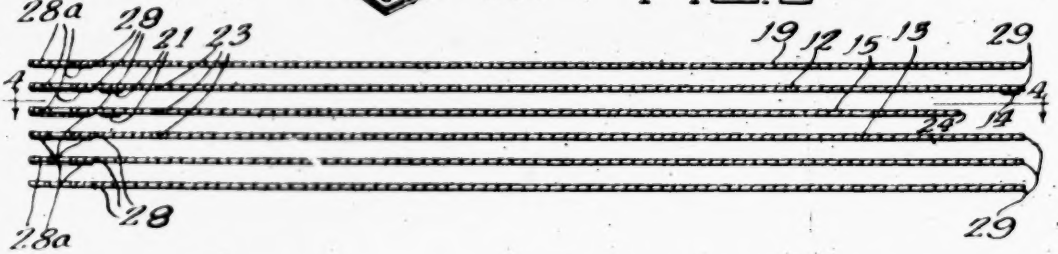


FIG. 3



Inventor
Donald J. Steidinger
By: Hofgren, Brady, Wegner, Allen & Stillman
Attorneys

Sept. 24, 1963 D. J. STEIDINGER 3,104,799

ENVELOPE ASSEMBLY

Filed May 29, 1961 3 Sheets-Sheet 2

FIG.4

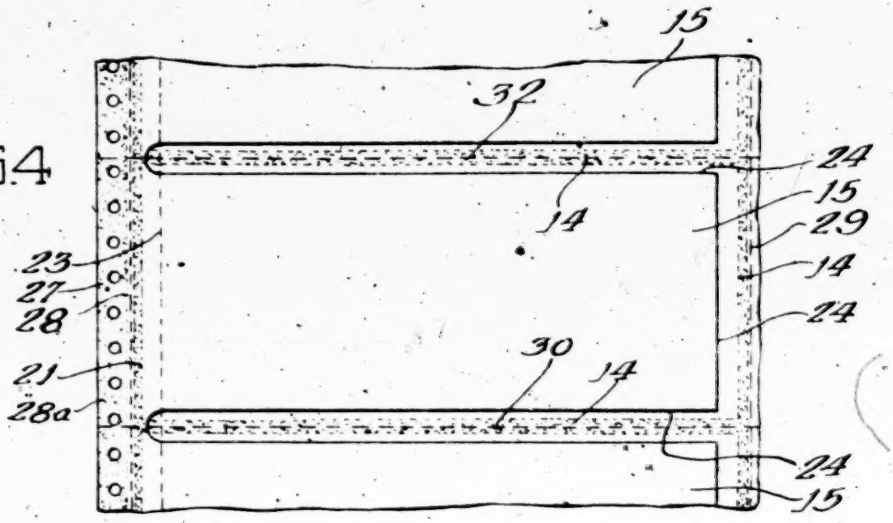


FIG.5

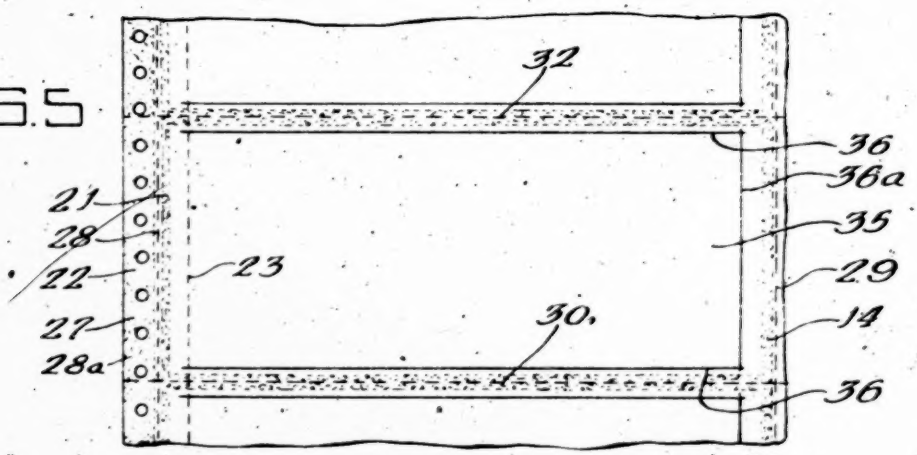
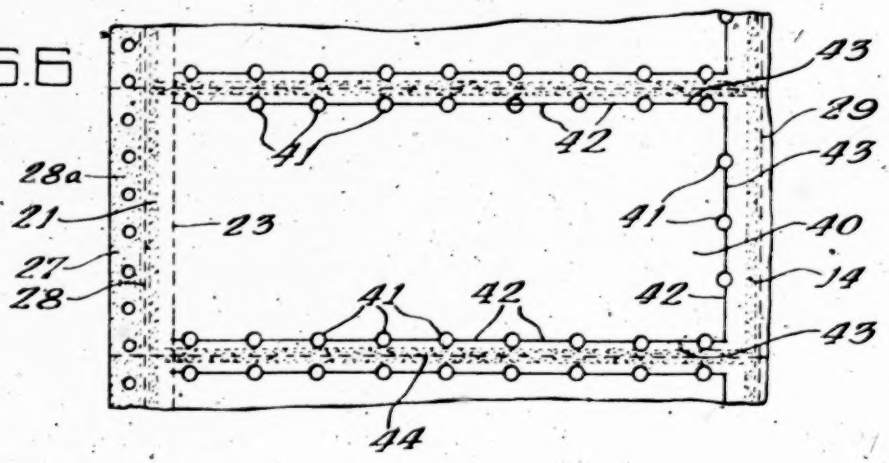


FIG.6



Sept. 24, 1963 D. J. STEIDINGER 3,104,799

ENVELOPE ASSEMBLY

Filed May 29, 1961 3 Sheets-Sheet 3

FIG. 7

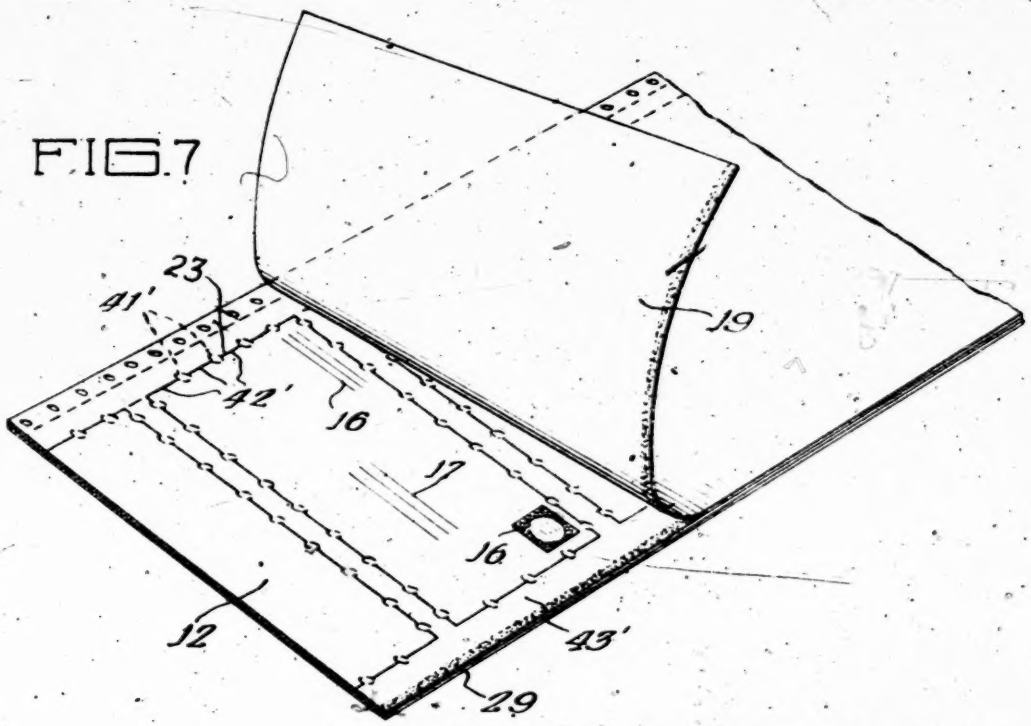
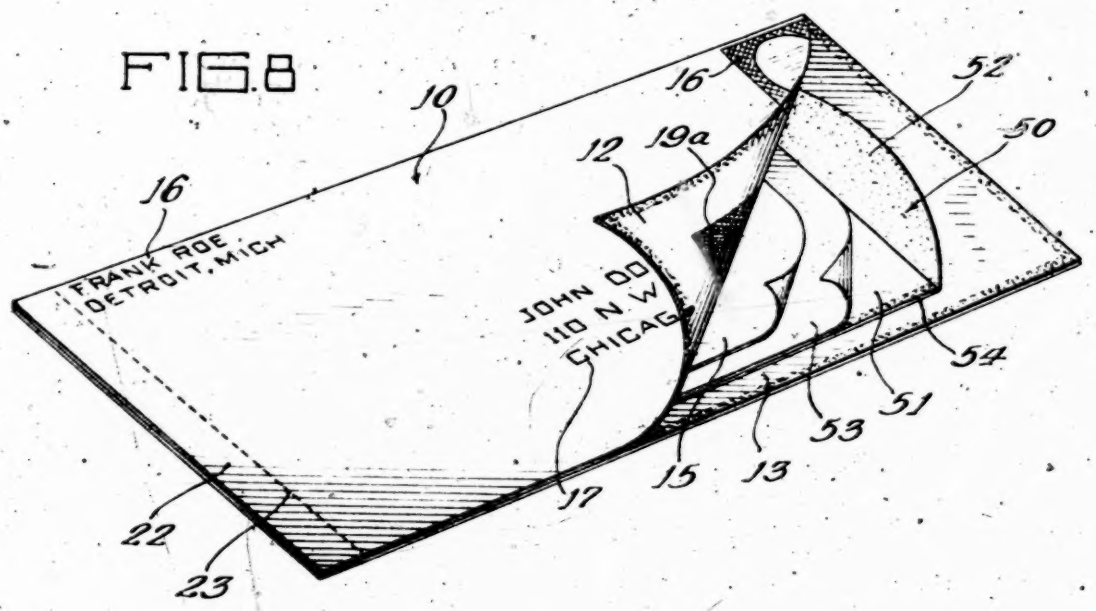


FIG. 8



United States Patent Office 3,104,799 Patented Sept. 24, 1963

3,104,799

ENVELOPE ASSEMBLY

Donald J. Steidinger, Clarendon Hills, Ill., assignor to Uarco, Incorporated, a corporation of Illinois

Filed May 29, 1961, Ser. No. 113,314
18 Claims. (Cl. 229—69)

This invention relates to envelope assemblies, and more particularly to continuous form stationery having superimposed plies incorporating stuffed sealed envelopes.

The processing of office forms is becoming increasingly acute for many businesses. Continuous form stationery, such as manifold assemblies having a plurality of continuous, superimposed, printed plies of stationery are commercially available. Such manifold assemblies are fed through suitable office equipment, such as a typewriter or tabulating machine, for simultaneously imprinting all plies of a set of forms. Personalized imprinting on the various plies, for example, the recipient's name and address, a due date and amount, and so forth, is usually imprinted in its entirety on a front master ply and is selectively imprinted on underlying plies by means such as spot carbon on rear faces of the plies, or separate sheets of spot carbon in the manifold assembly. Manifold assemblies usually have suitably positioned longitudinal and cross lines of weakening for dividing the assembly into sets of office forms in suitable bursting and deleaving machines.

Manufacture of continuous form stationery, its imprinting in office equipment, deleaving and bursting, are a highly developed and commercialized field. However, subsequent operations such as stuffing envelopes with collected forms, and sealing and stamping the envelopes remains a time-consuming and relatively inefficient operation.

Particularly for matter being sent through the mails to the general public, the envelopes must be easy and simple to open for ready access to the material inserted in the envelope. Proper stuffing of envelopes is further complicated when a return envelope is to be enclosed, not only because of the increased material to be handled, but also because of the possibility of damaging the return envelope upon opening the outer carrier envelope. In addition, when envelopes are being stuffed there is always the hazard that an intended enclosure will be omitted or that an improper enclosure will be inserted in the carrier envelope.

The primary object of this invention is to provide new and improved continuous form stationery.

Another object of this invention is to provide new and improved continuous form stationery including sealed envelopes containing properly registered inserts to be imprinted within the envelopes. A related object is provision for simple and easy opening of the sealed envelope and removal of its contents.

A further object of the invention is to provision of a new and improved manifold assembly including sealed envelopes containing inserts, and means for imprinting the inserts concurrently with imprinting of the remainder of the manifold assembly, the envelopes being generally rectangular and the inserts being maintained in accurate registration for imprinting and being removable from the envelope upon opening only one edge portion of the envelope.

An important object of this invention is to provide a new and improved sealed envelope containing inserts to be imprinted while within the sealed envelopes. A related object is provision for easy opening of the sealed envelopes and removal of the inserts.

Other objects, features and advantages of the present invention will be apparent from the following description of preferred embodiments illustrated in the accompanying drawings, in which:

FIGURE 1 is a perspective view of a sealed envelope with an insert imprinted while within the sealed envelope, in accordance with the invention, with portions of the envelope folded back for clearer illustration;

FIGURE 2 is a fragmentary perspective view, to a reduced scale, of a continuous form stationery assembly having stuffed sealed envelopes of the type shown in FIGURE 1;

FIGURE 3 is a fragmentary, enlarged and exploded sectional view taken generally along the line 3—3 of FIGURE 2;

FIGURE 4 is a fragmentary sectional view, to a reduced scale, taken generally along the line 4—4 of FIGURE 3;

FIGURE 5 is a fragmentary sectional view, similar to FIGURE 4, but illustrating another embodiment of the invention;

FIGURE 6 is a fragmentary sectional view generally similar to FIGURES 4 and 5, but illustrating still another embodiment of the invention;

FIGURE 7 is a fragmentary perspective view similar to FIGURE 6, of still another embodiment, with a ply folded back for clearer illustration; and

FIGURE 8 is a perspective view similar to FIGURE 1 of another embodiment of a sealed envelope, in accordance with the invention.

The present invention is, in brief, directed to continuous form stationery generally referred to as a manifold assembly, and to sealed envelopes thereof containing inserts to be imprinted while within the sealed envelopes as the manifold assembly passes through a suitable office imprinting machine such as a typewriter or tabulating machine. One or more inserts may be included within each sealed envelope. For example, an inner envelope, such as a return envelope, may be enclosed. Other inserts, such as sheets might take the form of premium notices, advertising, a bill, or an invoice, with or without a return envelope. The inserts are detachably held by the sealed envelope in proper registration with a front master record sheet or ply of the manifold assembly for selective, individualized imprinting concurrently with the master record ply. Standard indicia may be printed on the sealed envelope and one or more inserts along with printing of the other plies during manufacture of the manifold assembly. After the manifold assembly has been individually imprinted in suitable office equipment the sealed envelopes and their inserts are burst and deleaved from the manifold assembly. To open a sealed envelope and remove the inserts it is then merely necessary to detach a tear strip along an edge of the sealed envelope.

Referring to the drawings, FIGURE 1 shows a sealed stuffed envelope assembly having sealed outer envelope **10** removed from a manifold assembly illustrated in FIGURE 2. Envelope **10** is generally rectangular and has a front **12** and a back **13** sealed along a strip coextensive with three of the peripheral edges, in any suitable manner as by a strip of adhesive **14**. For purposes of clearer illustration, front **12** and back **13** are folded outwardly at the lower left-hand corner of the envelope, but this corner is actually sealed. Insert material, in the present illustration a single sheet **15**, is sealed within the envelope **10**.

Inserts and sealed outer envelope fronts **12** and backs **13** are preferably printed with standard indicia **16** during manufacture of the manifold assembly **11**. Such standard indicia is here shown as including a date box on the sheet **15**, and a return address and printed stamp on the front **12** of the sealed outer envelope **10**. Vari-

able indicia, such as delivery address **17** on sealed envelope front **12** may or may not be imprinted on the insert, and date **18** may be selectively imprinted only on sheet **15**. Such variable indicia may be imprinted in an office machine in any suitable manner simultaneously with, and responsive to, conventional imprinting of the variable indicia on a front master record ply **19** of the manifold assembly **11**, as the assembly is threaded through an office typewriter or tabulating machine. Suitable spot transfer material **19***a*, as the spot of carbon on the rear face of front **12** provides for selective imprinting. Pressure senstitive insert stock may be used, if desired.

The inserts are releasably maintained in proper registration with the front master record ply **19**, and are freed from the sealed outer envelope by an attaching portion **20** of the inserts which are suitably secured, by an adhesive strip **21**, between the sealed outer envelope front **12** and back **13**. It should be noted that insert **15** is secured to the sealed outer envelope **10** only along attaching portion **20** and that the remainder of the insert has marginal edges **24** spaced from the periphery of the sealed outer envelope **10** and from the adjacent adhesive strip **14**. Attaching portion **20** forms part of a tear strip **22** which is delimited by a line of weakening **23**, such as perforations, extending through the envelope front **12** and back **13** and insert **15**, along one edge of the sealed envelope assembly. Adhesive strip **21** is spaced outwardly from tear line of weakening **23**, and upon severing the tear strip **22** along tear line **23** to open the sealed outer envelope **10**, insert **15** is free of the envelope.

With particular reference to FIGURES 2 and 3, the manifold assembly includes a plurality of superimposed plies of continuous form stationery printed with standard indicia, as previously described. The plies are assembled with the printed indicia of the various plies maintained in proper registration by feed bands **27** on opposite sides of the plies. The feed bands are delimited by longitudinal lines of weakening **28** in the plies. In the illustrated embodiment feed bands **27** are perforated for cooperating with feed mechanism of the manufacturing apparatus as well as the office imprinting equipment. Feed bands **27** of the various plies are suitably secured to each other as by adhesive **28***a* in the complete manifold assembly. The illustrated manifold assembly is further provided with a central longitudinal line of weakening **29** providing two parallel rows across the continuous form. Cross lines of weakening **30** divide each row of forms into individual sets of forms, as sets **31** in the left-hand row. This row has a series of sealed outer envelope assemblies.

The plies forming the sealed outer envelope as well as its interior sheets may be made in any size desired. It is ordinarily preferred to make the envelope length in the direction of the continuous strip, the same length as the form length of the individual tickets.

In the embodiment illustrated in FIGURES 1–4, the ply of sheet **15** is die cut on three sides to form a U-shaped slot, as illustrated in FIGURE 4, and providing marginal edges **24**. The strip of adhesive **14** secures sealed outer envelope front **12** directly to back **13** with insert sheet marginal edges **24** spaced inwardly from this strip. As previously discussed, tear line **23** includes lines of weakening in front **12**, back **13** and insert **15** along one edge of the sealed outer envelope **10**. The die cuts in the ply forming insert sheets **15** intersect the tear line in insert sheet **15**, and adhesive **21** of the tear strip is spaced from this line of weakening, so that upon opening the envelope at the tear line the sheet **15** is entirely free of the envelope **10**. As shown by the two bottom plies in FIGURE 3, the continuous form may include additional plies in a conventional manner.

The modification of FIGURE 5 is substantially the same as the foregoing, but insert sheet **35** is provided with marginal edges formed by parallel cross slits **36** and longitudinal slit **36***a* forming a generally U-shaped slit spaced from the adjacent peripheral edges **11** of the envelope and the adhesive. Slits **36** cross the tear line **23** so that upon removing tear strip **22** the sheet is free of envelope **10** as previously described. In this embodiment envelope **10** is sealed with the ply of sheet **35** adhesively secured between envelope front **12** and back **13**.

The embodiments of FIGURES 6 and 7 are similar to the previously described embodiments, but as shown in FIGURE 6, prior to incorporation into the manifold assembly insert sheet **40** is provided with a plurality of spaced apart perforations **41** in a generally U-shaped series. After assembly the envelope front **12** and back **13**, and sheet **40** are simultaneously perforated as by slits **42**, thus connecting adjacent perforations **41** and defining insert marginal edge **43** which is again spaced from the adhesive **44** securing the adjacent peripheral edges of the envelope. As in the immediately preceding embodiment, the ply forming sheet **40** also is received and adhesively secured between envelope front **12** and back **13**. Marginal edge **43** extends across tear line **23**, as in the foregoing embodiments, so that upon opening sealed envelope **10** insert **40** is free of the envelope and may be easily removed.

As shown in FIGURE 7, a continuous marginal edge **43'** may extend around the entire insert. The edge is formed by a continuous line of perforations **41'**, and a continuous line of slits **42'**, similar to those in conjunction with FIGURE 6. The insert is maintained in proper registration for imprinting while within the sealed envelope by close spacing with the strip sealing the sealed outer envelope **10**.

Referring now to FIGURE 8, the inserts within sealed outer envelope **10** include the previously described sheet **15**, and also a rectangular return envelope **50**. Return envelope **50** has a front **51** with a dry adhesive coated tab **52** for sealing the envelope, and a back **53**. Three sides of the return inner envelope are sealed in any suitable manner as by adhesive **54** between the front and back. Again, suitable spot transfer material **19***a* is applied to the plies for selectively imprinting the various inserts along with imprinting of front master record ply **19**. As previously described, all inserts are maintained in proper registration within the sealed envelope and connection thereto by the attaching portion **20** of the tear strip **22**. The return envelope insert is equally applicable to any of the other embodiments as will be obvious to one skilled in the art, and various combinations of inserts may be contained in sealed envelopes **10**.

The various portions of the plies which are secured to each other by adhesive may equally well be secured by other suitable means well understood in the art. Sealed envelopes **10** may be directly connected to each other in the manifold assembly, to form a continuous series of stuffed sealed envelopes. Unattached envelope assemblies of this type may be imprinted separately from a manifold assembly.

The foregoing detailed description is given for clearness of understanding only, and no unnecessary limitations should be understood therefrom for some modifications will be obvious to those skilled in the art.

I claim:

1. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies including, a front master record ply and other plies defining fronts and backs of sealed envelopes and insert material within each sealed envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly; an attaching portion connecting a portion of the insert material in each sealed envelope with the sealed envelope and the remaining portion of said insert material having marginal edges free of the sealed envelope; feed bands on opposite sides of said

plies for maintaining said plies properly registered and assembled and for feeding of said plies through equipment for imprinting the plies; spot carbon between said plies for selectively imprinting said sealed envelope and said insert material while within said sealed envelope responsive to imprinting said master record ply; and a substantially straight tear strip on each sealed envelope and including said attaching portion for opening the sealed envelope and freeing said insert material from the envelope.

2. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies including, a front master record ply and other plies defining fronts and backs of sealed envelopes and insert material within each sealed envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly, the front and back of each sealed envelope being secured to each other along a substantially continuous strip coextensive with the periphery of the sealed envelope; an attaching portion connecting a portion of the insert material in each sealed envelope with the sealed envelope and the remaining portion of said insert material having marginal edges inward of said strip and free of the sealed envelope; said attaching portion being substantially straight and connected with the insert material by a substantially straight line of weakening intersecting portions of said marginal edges; feed bands on opposite sides of said plies for maintaining said plies properly registered and assembled and for feeding of said plies through equipment for imprinting the plies, said feed bands being connected with said plies by lines of weakening for detaching the feed bands from the plies; spot carbon between said plies for selectively imprinting said sealed envelope and said insert material while within said sealed envelope responsive to imprinting said master record ply; and a substantially straight tear strip on each sealed envelope and including said attaching portion, said tear strip being delimited in the sealed envelope front and back by substantially straight lines of weakening cooperating with the attaching portion line of weakening, for opening the sealed envelope and freeing said insert material from the envelope.

3. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed envelopes and insert material within each sealed envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly; attaching means connecting a portion of the insert material in each sealed envelope with the sealed envelope and the remaining portion of said insert material having marginal edges free of the sealed envelope; means for feeding said plies properly registered and assembled through equipment for imprinting said plies; means for imprinting said insert material while within said sealed envelopes; and means comprising a substantially straight portion of each sealed envelope for opening the sealed envelope and freeing said insert material from the envelope.

4. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed envelopes and insert material within each envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly; an attaching portion connecting a portion of the insert material in each sealed envelope with the sealed envelope and the remaining portion of said insert material having marginal edges free of the sealed envelope, said attaching portion being substantially straight and connected with the insert material by a substantially straight line of weakening; means for feeding said plies properly registered and assembled through equipment for imprinting said plies; means for imprinting said insert material while within said sealed envelopes; and a substantally straight tear strip on each sealed envelope and including said attaching portion, said tear strip being delimited in the sealed envelope front and back by substantially straight lines of weakening cooperating with the attaching portion line of weakening, for opening the sealed envelope and freeing said insert material from the envelope.

5. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed envelopes and insert material within each sealed envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly; attaching means connecting a portion of the insert material in each sealed envelope with the sealed envelope and the remaining portion of said insert material having marginal edges free of the sealed envelope; and means for opening the sealed envelope and freeing said insert material from the envelope.

6. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed envelopes and insert material within each sealed envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly, the front and back of each sealed envelope being secured to each other along a substantially continuous strip coextensive with the periphery of the sealed envelope; and attaching portion connecting a portion of the insert material in each sealed envelope with the sealed envelope and the remaining portion of said insert material having marginal edges inward of said strip and free of the sealed envelope, said attaching portion being substantially straight and connected with the insert material by a substantially straight line of weakening intersecting portions of said marginal edges; and a substantially straight tear strip on each sealed envelope and including said attaching portion, said tear strip being delimited in the sealed envelope front and back by substantially straight lines of weakening cooperating with the attaching portion line of weakening, for opening the sealed envelope and freeing said insert material from the envelope.

7. The assembly of claim 6 wherein each strip adjacent the marginal edges secures the sealed envelope front and back directly to each other.

8. The assembly of claim 6 wherein the insert material ply has slits defining said marginal edges, and each strip secures the sealed envelope front and back to each other with portions of the insert material ply therebetween.

9. The assembly of claim 6 wherein the insert material ply within each sealed envelope has first perforations, and said sealed envelope front and back and insert material ply have second perforations, said second perforations in the insert material ply connecting adjacent first perforations thereby defining said marginal edges, and said strip secures the sealed envelope front and back to each other with portions of the insert material ply therebetween.

10. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed outer envelopes and an inner envelope within each sealed outer envelope, said sealed outer envelopes being delimited by lines of weakening in the plies for separating the sealed outer envelopes from the assembly; means connecting a portion of the inner envelope in each sealed outer envelope with the sealed outer envelope and the remaining portion of said inner envelope having marginal edges free of the sealed envelope; and means for opening the sealed outer envelope and freeing said inner envelope from the outer envelope.

11. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed outer envelopes and a front and back of an inner envelope within each sealed outer envelope, said sealed outer envelopes being delimited by lines of weakening in the plies for separating the sealed outer envelopes from the assembly; an attaching portion connecting a portion of the inner envelope in each sealed outer envelope with the sealed outer envelope and the remaining portion of said inner envelope having marginal edges free of the

sealed envelopes; and means comprising a substantially straight portion of each sealed outer envelope and including said attaching portion for opening the sealed outer envelope and freeing said inner envelope from the outer envelope.

12. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed outer envelopes and a front and back of an inner envelope within each sealed outer envelope, said sealed outer envelopes being delimited by lines of weakening in the plies for separating the sealed outer envelopes from the assembly, the front and back of each sealed outer envelope being secured to each other along a substantially continuous strip coextensive with the periphery of the sealed outer envelope; an attaching portion connecting a portion of the inner envelope in each sealed outer envelope with the sealed outer envelope and the remaining portion of said inner envelope having marginal edges inward of said strip and free of the sealed envelope, said attaching portion being substantially straight and connected with the inner envelope by a substantially straight line of weakening intersecting portions of said marginal edges, and at least portions of adjacent front and back marginal edges being secured to each other; and a substantially straight tear strip on each sealed outer envelope and including said attaching portion, said tear strip being delimited in the sealed outer envelope front and back by substantially straight lines of weakening cooperating with the attaching portion line of weakening, for opening the sealed outer envelope and freeing said inner envelope from the outer envelope.

13. A stuffed sealed envelope assembly, comprising: a sealed envelope having a front and back; insert material within said sealed envelope; an attaching portion connecting a portion of the insert material with the sealed envelope and the remaining portion of said insert material having marginal edges free of the sealed envelope, said attaching portion being substantially straight and connected with the insert material by a substantially straight line of weakening intersecting portions of said marginal edges; and a substantially straight tear strip on said sealed envelope and including said attaching portion, said tear strip being delimited in the sealed envelope front and back by substantially straight lines of weakening cooperating with the attaching portion line of weakening, for opening the sealed envelope and freeing said insert material from the envelope.

14. The assembly of claim 13 wherein the sealed envelope front and back are secured directly to each other adjacent the marginal edges.

15. The assembly of claim 13 wherein the insert material has slits defining said marginal edges, and the sealed envelope front and back are secured to each other with portions of the insert material adjacent said marginal edges therebetween.

16. The assembly of claim 13 wherein the insert material has first perforations, and said sealed envelope front and back and insert material have second perforations, said second perforations in the insert material connecting adjacent first perforations thereby defining said marginal edges, and the sealed envelope front and back are secured to each other with portions of the insert material adjacent said marginal edge therebetween.

17. An assembly having a series of stuffed sealed envelopes, comprising: superimposed plies defining fronts and backs of sealed envelopes and insert material within each sealed envelope, said sealed envelopes being delimited by lines of weakening in the plies for separating the sealed envelopes from the assembly, the front and back of each sealed envelope and the insert material ply being secured to each other along a substantially continuous strip coextensive with the periphery of the sealed envelope; the insert material ply within each sealed envelope having a continuous line of first perforations, and said sealed envelope front and back and insert material ply have second perforations, said second perforations in the insert material ply connecting adjacent first perforations and defining a continuous marginal edge free of said sealed envelope and freeing the insert material from said sealed envelope, said marginal edges being close to said strip to maintain said insert material properly registered; and a tear strip on each sealed envelope delimited in the sealed envelope front and back by lines of weakening for opening the sealed envelope.

18. An assembly including a stuffed sealed envelope for manifolding, comprising: superimposed plies including a record ply and other plies defining a front, a back of a sealed envelope and insert material within the sealed envelope, said plies forming said front and back having lines of weakening for securing said envelope in said assembly; an attaching portion connecting a portion of the insert material in the envelope with one margin of the envelope and the remaining portion of the insert material having marginal edges free of the sealed envelope margins; transfer means within the assembly and envelope for selective imprinting of the envelope and said insert material; and a substantially straight tear strip on the envelope extending across said attaching portion of the insert material permitting opening the envelope and freeing the insert material upon severance of the plies along said tear strip.

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BEST AVAILABLE COPY

Bonnaffon Patent No. 697,971 (DX 1)

No. 697,971. Patented Apr. 22, 1902.

S. A. BONNAFFON.

ENVELOP.

(Application filed Feb. 1, 1902.)

(No Model.) 3 Sheets—Sheet 1.

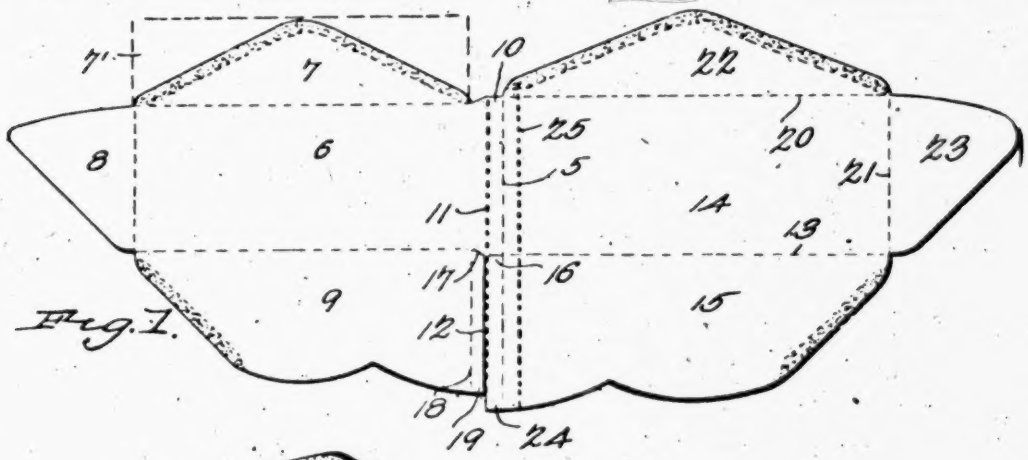


Fig. 1.

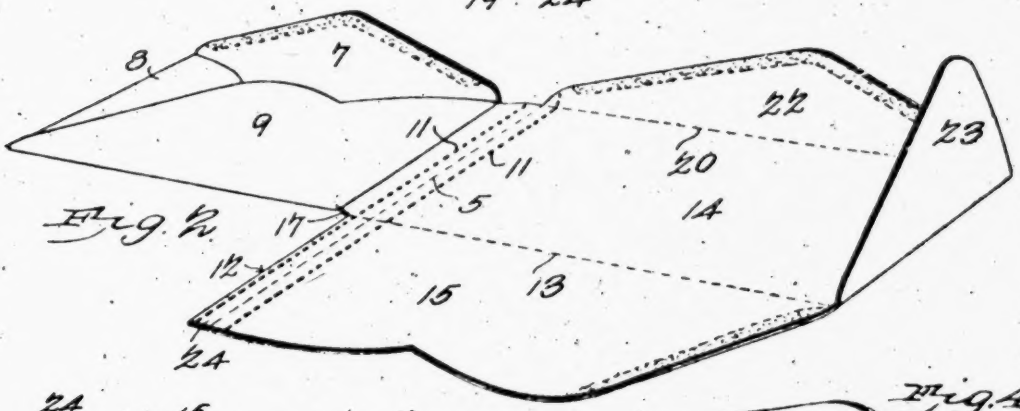


Fig. 2.

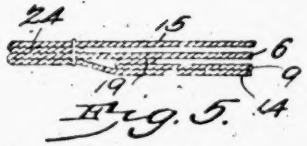


Fig. 5.

Fig. 4.

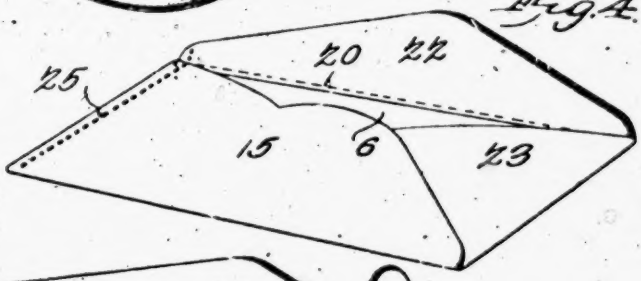
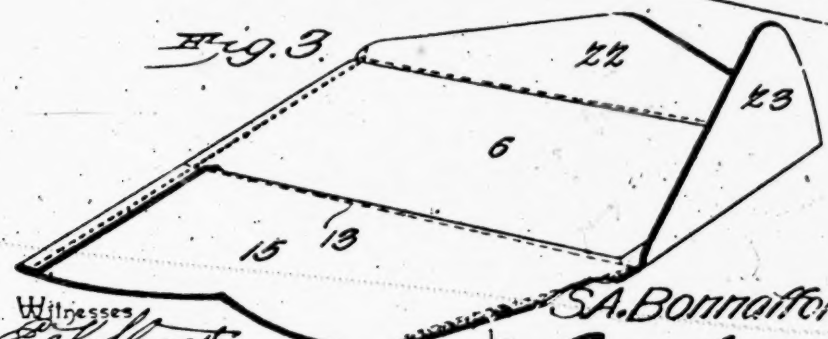


Fig. 3.



Witnesses
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No. 697,971. Patented Apr. 22, 1902.

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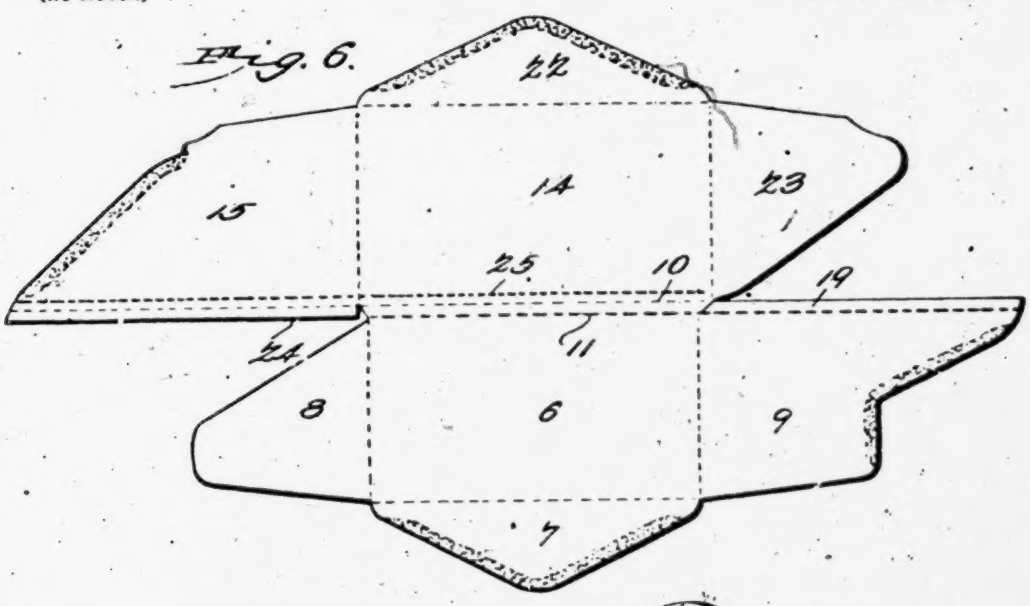
ENVELOP.

(Application filed Feb. 1, 1902.)

(No Model.) 3 Sheets—Sheet 2.

Fig. 6.



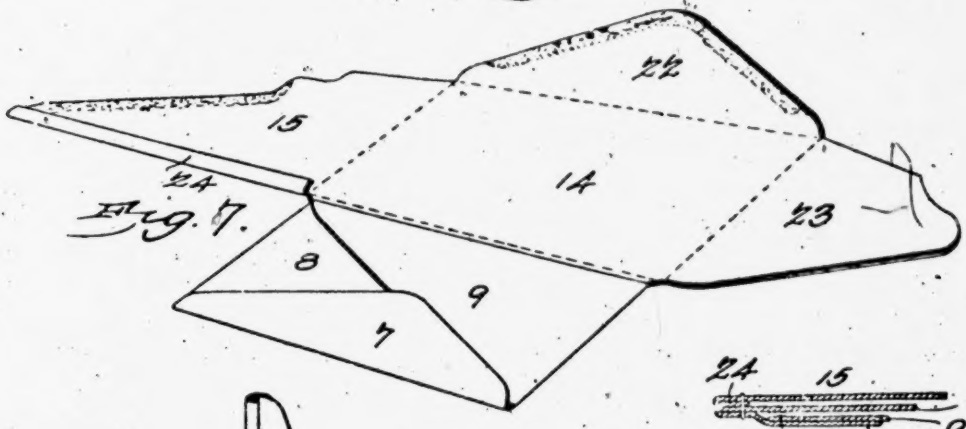


Fig. 7.

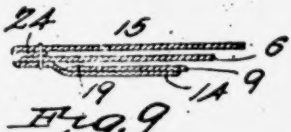


Fig. 9.

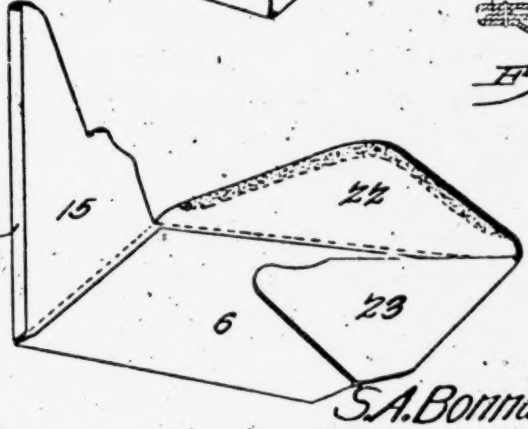


Fig. 8.

Witnesses
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No. 697,971. Patented Apr. 22, 1902.

S. A. BONNAFFON.

ENVELOP.

(Application filed Feb. 1, 1902.)

(No Model.) 3 Sheets—Sheet 3.

Fig. 10.

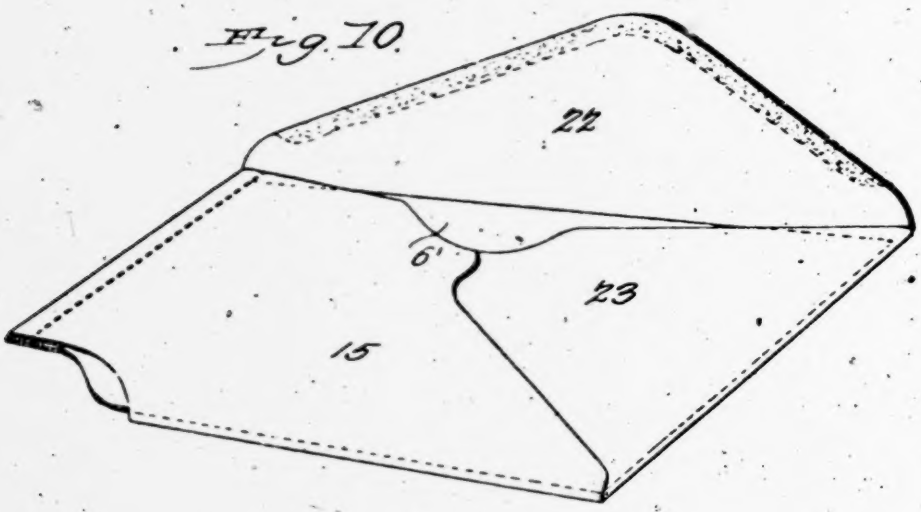

Fig. 11.

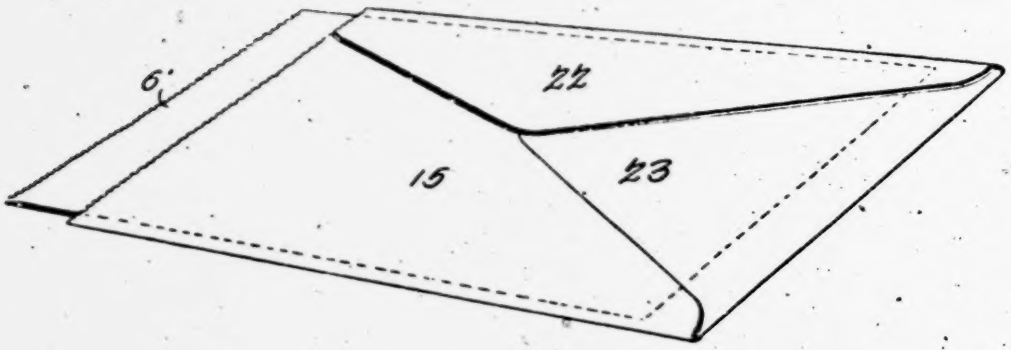

Fig. 12.

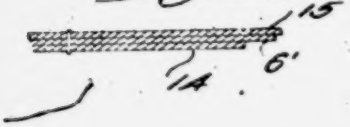

Fig. 13.

Witnesses
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UNITED STATES PATENT OFFICE.

SAMUEL ASHTON BONNAFFON, OF ERIE, PENNSYLVANIA.

ENVELOP.

SPECIFICATION forming part of Letters Patent No. 697,971, dated April 22, 1902.

Application filed February 1, 1902. Serial No. 92,214. (No model.)

To all whom it may concern:

Be it known that I, SAMUEL ASHTON BONNAFFON, a citizen of the United States, residing at Erie, in the county of Erie and State of Pennsylvania, have invented a new and useful Envelop, of which the following is a specification.

My invention relates to certain improvements in envelops, and has for its principal object to provide an improved form of double envelop from a single blank cut into proper shape and folded in such manner as to form two connected envelops, one situated within the other, either for the purpose of additional security in mailing or to provide a return-envelop which may be used in answering a letter or for the return of samples of merchandise.

The invention further contemplates an envelop in which the inclosed portion may be in the form of a reply postal card or a letter-sheet formed integral with the body of the envelop.

A further object of the invention is to so construct the envelop as to permit of the ready withdrawal of the contents of the outer envelop without injury thereto.

With these and other objects in view the invention consists in the novel construction of envelop hereinafter described, illustrated in the accompanying drawings, and particularly pointed out in the appended claims.

In the drawings, Figure 1 illustrates an envelop-blank made in accordance with my invention and illustrating in dotted lines the folding-lines of the various sections and the location of the subsequently-formed line of perforations or stitching placed at one end of the envelop for convenience in opening the same. Fig. 2 is a perspective view of the blank, showing the bottom and end flaps folded. Fig. 3 is a similar view illustrating the inner envelop folded down in position within the outlines of the top and bottom and end flaps of the outer envelop. Fig. 4 is a perspective view of the completed envelop. Fig. 5 is a sectional view, on an exaggerated scale, through the opening end of the envelop. Fig. 6 is a plan view of a modified construction in which the main folding-line between the two envelop-sections is at the bottom instead of at one end, as in Fig. 1. Fig. 7 is a perspective view showing the blank illustrated in Fig. 6 partially folded to form the inner envelop. Fig. 8 is a similar view showing the inner envelop folded within the flaps of the outer envelop, one of the end flaps of the outer envelop being folded over the same. Fig. 9 is a detail sectional view, on an exaggerated scale, through the bottom portion of a complete envelop formed from the blank shown in Fig. 6. Fig. 10 is a perspective view, partially in section, illustrating a construction of envelop in which the inclosed portion is formed integral with the envelop-blank, the inclosed portion taking the form of a letter-sheet or postal card. Fig. 11 is a perspective view of the envelop shown in Fig. 10 with the opening-strip removed and the inclosure partly withdrawn. Fig. 12 is a sectional view, on an enlarged scale, through the open end of the envelop and letter-sheet illustrated in Fig. 10. Fig. 13 illustrates, on an exaggerated scale, a line of stitching which may be employed between the opening-strip and the body of the envelop to take the place of a row of perforations and as an additional means of preventing injury to the contents of the envelop.

Similar numerals of reference are employed to designate corresponding parts throughout the several figures of the drawings.

The blank is made of the contour illustrated in Fig. 1 and is divided by a folding-line 5 into two main portions, each of which when properly folded forms an envelop. The main or address section 6 of the smaller envelop is separated from its top, end, and bottom flaps 7, 8, and 9, respectively, by the folding-lines (indicated by dotted lines) and is connected to the outer envelop-blank by a short section 10, extending from the end line of the finished envelop to the main folding-line 5, this section to be subsequently provided with a row of perforations 11, which may be formed by stitching or otherwise. This row of perforations extends parallel with the main folding-line 5 from edge to edge of the blank, being very close to the edge of a slit 12, which divides the lower flap of the smaller envelop from the corresponding flap of the larger envelop, said slit extending from one edge of the blank to the folding-line 13, which divides the central section 14 from the lower flap 15 of the larger envelop, and being thence extended, as

indicated at 16, to the main folding-line 5. A short slit 17 is also formed from the juncture of the slits 12 and 16 to the intersecting point of the lower and inner end edge of the smaller envelop.

18 indicates a folding-line in alinement with the inner end of the small envelop and extending across the bottom flap 9 to form an end section 19, which is folded inwardly and secured by gum or other adhesive material to the end of the central section 6 of the small envelop.

The main or central sections 14 of the larger envelop is divided from its lower flap 15 by a folding-line 13, and similar folding-lines 20 and 21 are arranged between its top and end flaps 22 and 23, respectively. The slits 12 and 16 form outside the main folding-line 5 a short end flap 24, which is folded over on the lower flap 15 of the outer and larger envelop. The edge portions of a number of the sections may be provided with adhesive material, as indicated by the shaded portions.

In folding the envelop the end flap 8 is first turned down upon the central section 6. The section 18 is next bent inwardly upon the bottom flap 9 and, together with the bottom flap, is folded down on the central section 6 and end flap 8, the edge of the lower flap 9 being secured by adhesive material on top of the end flap 8 and the section 19 being secured by adhesive material to the inner end of the main section 6. This stage of the folding is indicated in Fig. 2.

The top flap 7 of the inner envelop being folded down to close the envelop, the blank is folded on the main folding-line 5, as indicated in Fig. 3, thus placing the completed inner envelop in position within the partly-folded outer envelop. The end flap 23 is next folded down on the inner envelop, and the lower flap 15 and end section 24 are then bent over to the position illustrated in Fig. 4, the folding being then complete with the exception of closing the top flap of the outer envelop. The section 24 may be pasted down on the end of the central section 6 of the smaller envelop, if desired, or all of the parts may be united at this point without the use of adhesive material by running a line of stitches over the end portion of the envelop, as indicated at 25 in Figs. 4 and 13, or, in the event of pasting, a row of perforations may be employed to form a readily-removable end strip at one end of the outer envelop, said perforations extending also through the section 10 of the inner envelop and serving when the strip is removed to divide the inner from the outer envelop.

In the finished envelop the top flap of the inner envelop is disposed at the top of the outer envelop, so that the top flap 7 may be readily opened to insert a letter or other object within said inner envelop, thus forming an additional protection to the contents.

To open the envelop, the end strip outside of the line of perforations or row of stitching is torn off, separating the inner from the outer envelop and permitting the ready removal of the contents. When the outer envelop is thus detached, a short projecting tab will be found at one end of the inner envelop, this tab being formed by the portion of the section 10 between the row of perforations 11 and the line of the end of the envelop, as illustrated in Fig. 1. This tab in practice is of such width as not to detract from the appearance of the envelop, although it may be removed, if necessary, before the inner envelop is remailed.

In the construction illustrated in Figs. 6, 7, 8, and 9 the connection between the two envelops is at the bottom instead of at the end and similar numerals of reference are employed to designate parts corresponding to those previously described, the only change being in proportion of the various parts, one end flap of each envelop-section being enlarged to take the place of the large bottom flaps of the blank illustrated in Fig. 1.

In Figs. 10 and 11 I have illustrated a construction which may be employed to form a combined letter-sheet and envelop or an envelop and postal card, the letter or card section being in the form of a substantially rectangular section 6', forming an integral part of the envelop-blank and which may be of the same size as the central or addressed section of the envelop or may be made of a larger size and folded into proper shape before being folded within the envelop.

In some cases the top flap 7 of the inner envelop may be made retangular in form in order to provide a docket or recording surface when the inner envelop is used as a file-wrapper. This construction is illustrated by dotted lines 7' in Fig. 1, it being understood that the flap may be made of any desired width for the purpose for which it is intended.

After the envelop is folded into finished form the perforations may be made by dies or otherwise; but as a rule a row of stitching will be found more desirable, inasmuch as it will prevent the letter or other contents from moving beyond the line of stitching into the space formed by the separable end strip, and thus avoid tearing the letter while the end strip is being removed. The lower stitching, moreover, may act as a means for securing the end section 24 of the outer envelop without the use of adhesive material and at the same time render the opening of the envelop much easier.

The inner envelop may be used either for the purpose of insuring the safety of the contents by providing a double cover, or it may be used as a return-envelop, the name and address of the sender being printed on the inner envelop during the process of manufacture.

In some cases the rows of perforations may be formed at the same time the blank is

made and at the same operation, the cutting-die being provided with a suitable number of alining cutting-punches for the purpose.

While the construction herein described, and illustrated in the accompanying drawings, presents the preferred form of envelop, it is obvious that various changes in its form, proportions, size, and minor details may be made without departing from the spirit or sacrificing any of the advantages of my invention.

Having thus described my invention, what I claim is—

1. As a new article of manufacture, a pair of integral envelops, one of which is wholly inclosed within the other, the outer envelop having a detachable marginal strip, the removal of which will sever the envelops from each other, and at the same time open the outer envelop and permit the removal of the inner envelop.

2. As a new article of manufacture, a pair of integral envelops, one of which is wholly inclosed within the other, the folding-line between the two envelops being midway between two rows of perforations which aline when the envelops are finished and form a detachable strip, the removal of which severs the envelops from each other, and at the same time opens the outer envelop and permits the removal of the inner envelop.

3. As a new article of manufacture, an envelop having an inclosed integral portion, said envelop and inclosure having an integral detachable marginal strip for opening the envelop and for severing the same from said inclosure.

4. An envelop-blank comprising a sheet of paper divided by folding-lines into central portions and marginal flaps for the formation of two complete envelops, the main folding-line between the two envelop-sections being located midway between two parallel rows of perforations and the removable strip thus formed between the two rows of perforations being so disposed as to form a marginal sealing-flap for one envelop, and a connecting-strip between the two envelop-sections.

5. As a new article of manufacture, an envelop-blank having a central folding-line dividing the blanks into two main sections, two parallel rows of perforations 11 and 23 being formed in the blank on opposite sides of the folding-line, thereby to form a detachable strip which may be removed to sever the envelops without destroying the integrity of the smaller envelop, said blank being so shaped as to form two complete envelops of different size.

In testimony that I claim the foregoing as my own I have hereto affixed my signature in the presence of two witnesses.

SAMUEL ASHTON BONNAFFON.

Witnesses:
MINNIE LEAH BONNAFFON,
JAMES W. ALLISON.

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Wanser Patent No. 2,148,886 (DX 2)

Feb. 28, 1939 P. C. WANSER 2,148,886

ENVELOPE IN CONTINUOUS STRIP FORM

Filed May 10, 1935 2 Sheets-Sheet 1

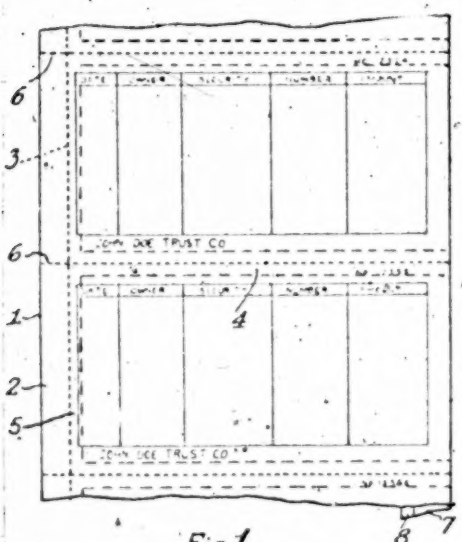

Fig. 1.

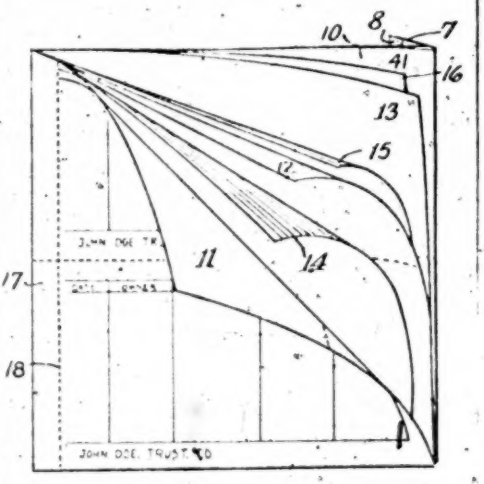

Fig. 2.

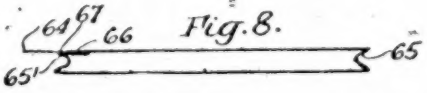

Fig. 8.

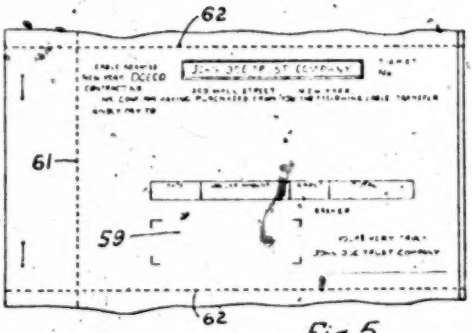

Fig. 5.

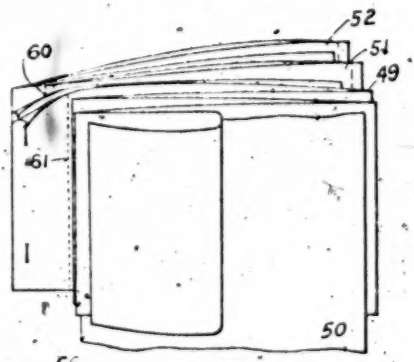

Fig. 6.

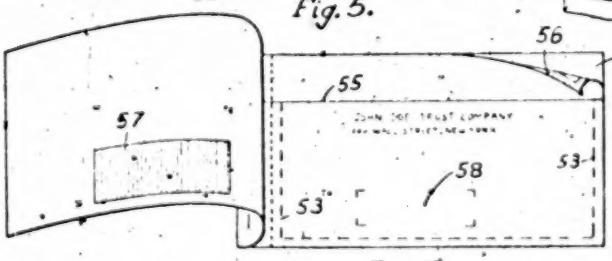

Fig. 7.

INVENTOR
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BY
Elmer R. Helfrich
His ATTORNEY

Feb. 28, 1939. P. C. WANSER 2,148,886

ENVELOPE IN CONTINUOUS STRIP FORM

Filed May 10, 1935 2 Sheets-Sheet 2

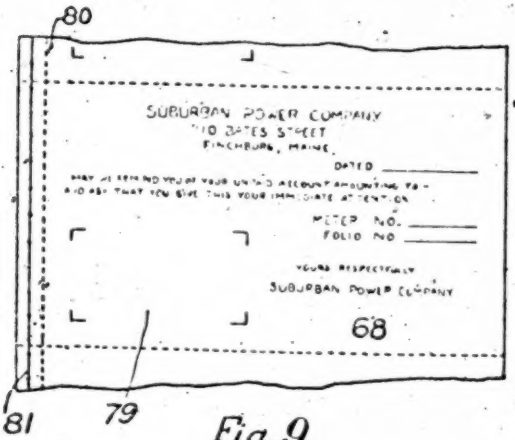

Fig. 9.

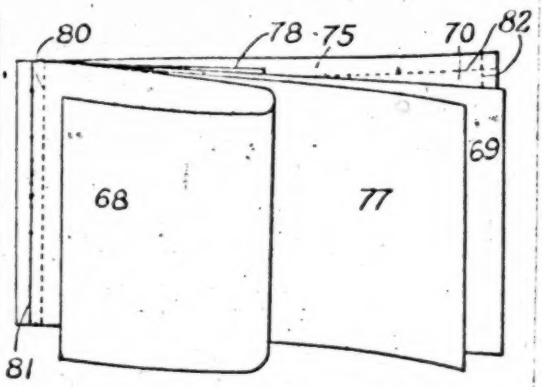

Fig. 10.

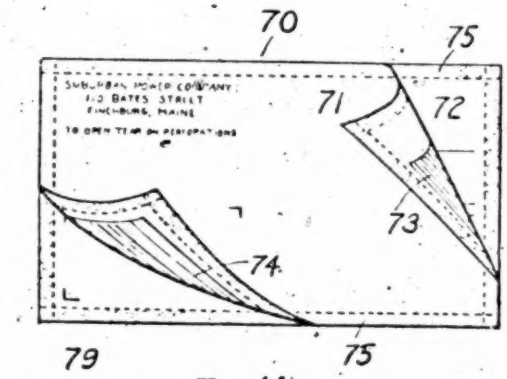

Fig. 11.

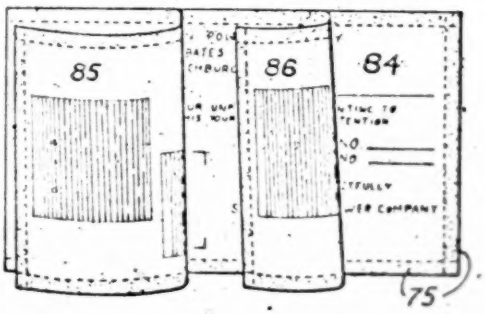

Fig. 12.

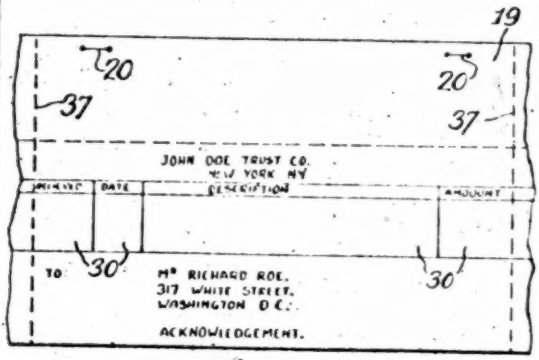

Fig. 3.

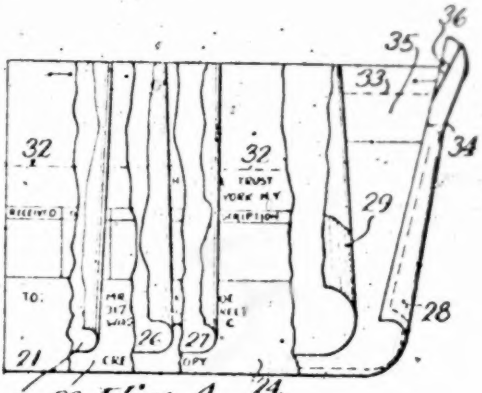

Fig. 4.

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BY
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his ATTORNEY

vertical lines. This fastening may be through the means of stapling or sewing or any of the other means well known in this art and, as illustrated in this case, comprises the use of a gum or cement as indicated transversely at the strips 4 and along the left edge at 5. The successive envelope sections may have data impressed thereon such as the form matter illustrated in Fig. 1 in accordance with the requirements of the person for whose use it is intended. Ordinarily this data would be supplemented when used, by current data inserted in the blank spaces shown in accordance with the particular business item. The manner in which this supplemental data is applied may be by any of the suitable types of office machines.

The individual envelopes will also normally be made readily separable manually by suitable impressions or devices as by the application of transverse perforations 6 extending through both sheets, or separation may be effected by a cutting operation.

Various types of envelopes are shown throughout the drawings typical of those readily adaptable to embodiment in the present invention. The envelope of Fig. 1, it will be seen, is of the type opening at the end and provided with a flap 7, comprising a folded over portion of the top sheet and adapted to be sealed down to the back panel by means of the gummed strip 8. The data on the front face of the envelope is merely illustrative. In the example of Fig. 1 the envelopes are numbered consecutively, the various numbers relating to a series of items or accounts, and the data to be inserted on the front face comprising a list of the contents of the envelope.

The strips of envelopes where desired may be combined with appropriate forms as shown in Fig. 2. The envelopes in this strip comprise the bottom layer 10. Superimposed one on the top of the other are suitable forms or data sheets 11, 12 and 13 with intervening carbons 14, 15 and 16, all bound together by the marginal strip 17 corresponding to marginal strip 2 of Fig. 1. The top business form is provided with perforations 18 which may coincide with the row of perforations of the envelopes or be offset therefrom. The same is true as to the other forms. The carbons will have corresponding perforations or not, dependent upon whether it is desired to sever them from the marginal strip or have them operable as snap-out carbons.

Figs. 3 and 4 illustrate a horizontal strip arrangement of envelopes and with the open end of the envelopes at the top, as pictured in these figures, adjacent the common supporting strip 19. In this illustration also a series of business forms and carbons are associated with the envelopes. The various layers are bound together as by stapling shown at 20.

The series of business forms are shown at 21, 22, 23 and 24, with intervening carbons at 25, 26 and 27. The set may include one or more envelopes in accordance with the requirements relating to the office practice and nature of the business matter in connection with which the stationery is to be used. One such envelope is shown at 28. This particular envelope is adapted for mailing purposes. A spot carbon 29 serves to transfer to the mailing envelope the name and address of the person—Richard Doe—in connection with whom the transaction is conducted. Other data typed in the spaces 30 will be selectively transferred to the various forms including a file envelope if one is employed, in accordance with the disposition of the carbon material.

The envelope 28 and also the various forms are readily separable from the marginal supporting strip 19. Perforations 32 enable the forms to be so detached. For detachment of the envelope a line of perforations 33 is provided in the upper sheet or front panel, and perforations 34 in the rear panel. The individual envelope then has the flap 35 provided with the gummed sealing portion 36. Perforations 37 in the sheets comprising the envelopes and various forms enables ready separation in the direction transverse to the length of the strip.

A still further adaptation of my invention is illustrated in Figs. 5, 6 and 7, in which there are associated two continuous strips of envelopes. As shown, a set of business forms 49 of the fan-fold type are also associated therewith. Suitable intervening carbons will be employed, one such carbon being shown at 50. The upper of the two envelope strips is shown at 51 and the lower at 52.

Envelope 52 may be a plain open type, for example, and adapted for filing purpose. Envelope 51 may be as shown in Fig. 7 with the lower and the left and right edges cemented as shown by dash lines at 53. The lower panel may have its top portion 54 thereof readily detachable as by perforations or scoring along a line coinciding with the scoring 55 of the top layer. With the portion torn off at the perforations, the flap part of the top sheet can be folded over backward for sealing the envelope along the gummed surface 56. Such an envelope would be appropriate for mailing. A spot carbon 57 enables the name and address of the sendee to be impressed in the space blocked out at 58 which corresponds with the typing space 59 of the top layer of stationery material. The left binding edge or marginal supporting strip may be made freely separable from each unit by perforations extending through the envelope material along the lines 60, and through the fan-fold form along the line 61.

The respective units, as in previous cases, may be separated by cutting along the lines 62; or may be made freely separable manually by the application of scoring or perforations as shown.

In certain cases it may be desirable to provide envelopes of somewhat larger capacity, particularly for filing purposes. A cross section of a modified form of envelope of this nature is shown in Fig. 8 comprising a bellows type envelope with the sides expanded as here shown. This type can be conveniently made in a continuous strip of a single sheet for example. In the cross section of Fig. 8 the material is continuous from the left edge extending along the upper side, through the normally flatly folded bellows 65, the lower side, and the bellows 65^1 at the left. The final edge is cemented to the upper side at 66. This envelope could also be used conveniently for example with the arrangement of Figures 1 and 2. Perforations are provided at 67 to enable the envelope to be readily detached from the left binding edge or marginal supporting strip.

In general the shape, and method of closure, of the envelopes will depend upon the purposes for which intended, including varied forms of flaps and with the edges closed or open, and where intended to be closed, may be so adapted through the use of such well known devices and means as gummed portions, spring fasteners, and metal clasps.

Patented Feb. 28, 1939

2,148,886

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UNITED STATES PATENT OFFICE

2,148,886

ENVELOPE IN CONTINUOUS STRIP FORM

Paul C. Wanser, Tarrytown, N. Y.

Application May 10, 1935, Serial No. 20,713

4 Claims. (Cl. 229—69)

The invention is concerned with improvements in office stationery, and particularly to an arrangement of envelopes in continuous strip form capable of economic and rapid manufacture and affording marked advantages in carrying on business correspondence and office transactions. The envelopes are arranged successively in the strip in edge to edge fashion, and are carried by a marginal supporting strip. The strip is capable of being inserted in a standard office machine and the desired data applied to the successive envelope units as the strip is progressively fed therethrough. A common example would be the addressing of a series of envelopes with an addressograph, in which the addressing plates are inserted in the machine and the successive envelopes pass therethrough emerging as a continuous strip with the proper data thereon, the operation requiring but little attention from the attendant.

One or more strips of envelopes may be bound together, that is, with two or more envelopes superimposed one on the other. Also there may be associated with the respective envelope or superimposed envelopes various business forms and carbons, the assembly as a whole constituting a continuous strip of successive units all carried by a marginal supporting strip and each unit in such case comprising one or more envelopes and business forms and carbons.

Where the successive units comprise, for example, two envelopes, one may be a mailing envelope and the other a file envelope. In addition to the convenience in their use the arrangement assures that the data applied to the respective envelopes of a unit will correspond. If the units also include business forms there is the same assurance that the data applied thereto will correspond with the respective envelopes, and that the various forms will be inserted in the proper envelopes.

As illustrated by the several examples disclosed herein, the invention permits the use of envelopes which, as individual units, may be of practically any design desired, dependent upon the circumstances and character of the use.

In general the various applications and forms of my invention and the advantages derived therefrom will be in part indicated in the following description and in part rendered apparent therefrom in connection with the annexed drawings.

To enable others skilled in the art so fully to apprehend the underlying features hereof that they may embody the same in the various ways contemplated by this invention, drawings depicting typical arrangements and indicating methods of manufacture and use have been annexed as a part of this disclosure and, in such drawings, like characters of reference denote corresponding parts throughout all the views, of which:

Fig. 1 illustrates one example of envelopes prepared in continuous strip form;

Fig. 2 shows such an envelope strip with various business forms and carbons associated therewith;

Fig. 3 shows the material arranged in continuous strip form horizontally as pictured in the drawings;

Fig. 4 corresponds to Fig. 3, but with various sheets of material broken away or curled up to disclose better one of the envelopes arranged at the bottom;

Figs. 5 and 6 disclose another arrangement in which there are two rows of envelopes, one superimposed over the other;

Fig. 7 is a detail of one of the envelopes of Figs. 5 and 6;

Fig. 8 is a cross-sectional view of a modified form of envelope capable of being employed in place of one of the envelopes shown in the various figures such as Fig. 6;

Figs. 9 and 10 show another continuous strip with a further modified type of envelope and including various business forms associated with the envelopes;

Fig. 11 discloses details of an envelope corresponding to that of Fig. 10; and

Fig. 12 shows variations in the form of envelope which may be employed in place of the envelope of Figs. 10 and 11.

Referring to the invention, first in one of its more simple forms, a typical example of which is illustrated by Fig. 1, this shows in plan a series of envelopes prepared in continuous strip form there being two complete envelope units here shown together with fragmentary portions of the preceding and succeeding envelopes respectively. The strip comprises two layers of paper one superimposed on the other. In the manufacture thereof a single strip may be folded over at the edge 1 to form the two layers, or the two layers may comprise superimposed individual sheets. The envelope sections are carried by but made readily separable from a marginal supporting strip 2. The perforations 3 afford a convenient means for detaching the units from the supporting strip. As will be apparent, the line of vertical perforations 3 also defines the left marginal edge of the envelopes. The layers are fastened together at appropriate transverse and

Further forms of envelopes which may be embodied in the present invention are shown in Figs. 9 to 12. As in other cases these envelopes also may have associated therewith suitable business forms, such as are indicated at 68 and 69. The envelope comprises a complete mailing unit 70, as shown generally in the rear of Fig. 10, and in more detail in Fig. 11. The envelope of Fig. 12 is similar but includes additional details.

Referring to Fig. 11 the more simple arrangement there shown includes a front and a back section of an envelope indicated at 71 and 72 respectively. The interior of the envelope has suitably disposed transfer material, for the transfer of current data to the inner face of the rear section, here shown as spot carbons 73 and 74. Each section will have applied thereto prior to assembly, suitable permanent data, with blank spaces for the application of current data. For a large class of business correspondence, the envelope units can be manufactured and come to the user as completely sealed articles arranged in continuous strip form comprising a succession of units carried by a marginal supporting strip or strips. A convenient means of manufacture is to cement the two sections together completely around the outer edge as indicated by the border 75. In Fig. 11 two corners of the upper sheet of the unit are shown rolled over, but this is merely for the purpose of better illustrating the arrangement.

In the use of this form of envelope the desired data will be applied to the top sheet and simultaneously transferred to underlying sheets in accordance with the disposition of carbons or transfer media. Fig. 10 shows an intervening carbon 77 designed to transfer all of the data to the second office sheet 69, which may be a duplicate of top sheet 68. A part carbon 78, however, serves to transfer only the name and address of the sendee to the front face of the envelope unit 70. This data will of course appear in the space 79 of each sheet including both sheets of the mailing unit 70. The spot carbon 74 serves to transfer this data to the second sheet thereof. The data, amount of the charges, meter number, and folio number will be transferred to the inner face of the bottom envelope sheet 72 through the medium of the spot carbon 73.

After all the data have been applied, the several sections of a unit are detached from the left binding edge or marginal supporting portion. This may be done readily through the provisions of perforations 80 extending through all of the sheets including the envelope unit and excepting the carbon sheets. The left edges will have been secured together originally, as by stitching 81 for example.

The completely sealed envelope unit 70 is now ready for mailing. When received the addressee tears off the edges at the perforations 82, and he has at hand the bottom sheet 72 thereof with the complete correspondence or information. In the correspondence unit shown this envelope sheet 72 is substantially a duplicate of the top sheet 68 retained by the sender.

The relatively simple business stationery unit and operation just described may be varied greatly as to details of arrangement and type of the forms, and may include, for example, filing envelopes and other matter specifically disclosed in connection with other figures. The mailing unit likewise may assume other forms, one such modified form appearing in Fig. 12. In this case the unit includes three sheets all secured together originally at the outer border similarly to Fig. 11. The lower sheet 84, and the topmost sheet 65, comprise the outer sheets of the envelope proper enclosing an intermediate sheet 86. In the specific illustration the under faces of sheets 85 and 86 have carbon spots similarly applied; and the upper faces of sheets 84 and 86 will be similar as to the data appearing thereon. Utilizing this form, therefore, the sendee has two copies 84 and 86 after opening the letter, one of which he can retain, and the other return to the sender.

It will be understood that throughout the description and drawings thereof the several illustrated forms are selected as being typical of the applications of the various principles of my invention; and that the terminology employed is merely for the purpose of description. By the term paper or stationery material I mean to include the various forms of material adapted and variously employed for stationery purposes such as cloth, fibre and any of the various transparent or translucent forms of sheet material of cellulose derivative.

It is intended that the foregoing description in connection with the illustrative drawings will so fully reveal the gist of this invention that others can, by applying current knowledge, readily adapt it for various utilizations by retaining one or more of the features that, from the standpoint of the prior art, fairly constitute essential characteristics of either the generic or specific aspects of this invention and, therefore, such adaptations should be, and are intended to be, comprehended within the meaning and range of equivalency of the appended claims.

Accordingly, I claim as new and desire to secure the following by Letters Patent of the United States:

1. Envelopes in continuous strip form comprising layers of superimposed envelope sheet material joined together at appropriate places to define a succession of individual envelopes, said strip having an envelope supporting marginal portion common to the successive envelopes, and said strip being provided at appropriate places with suitable means for enabling the individual envelopes to be readily detached from each other and from the marginal portion.

2. Envelopes in continuous form comprising two layers of suitable envelope material and of extensive area one layer being superimposed on the other and at least one of said layers extending laterally to form a marginal strip for carrying the successive envelopes, said layers being perforated and suitably formed along the edge to define envelope units including extended flap portions, and said layers being joined together within the respective units along lines corresponding to the normally closed edges of unsealed envelopes.

3. Envelopes in continuous strip form comprising layers of superimposed envelope sheet material joined together at appropriate places corresponding to a succession of individual envelopes, said strip having a marginal portion common to the successive envelopes, and being provided with perforations along said marginal portion for ready detachment of the envelopes therefrom, and said strip being provided also with perforations between the successive envelope units for ready separation thereof.

4. Envelopes in continuous strip form comprising layers of superimposed envelope sheet material extending for an area corresponding to a

succession of envelope areas, and having a marginal envelope supporting strip portion to which the envelope units are successively attached, said layers being suitably perforated to provide for separation as desired of the successive envelope units from each other and from the marginal strip and being successively impressed with data in accordance with the intended ultimate use of the respective envelopes, and said layers being joined together along lines corresponding to the normally closed edges of unsealed envelopes.

PAUL C. WANSER.

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Sherman Patent No. 2,257,766 (DX 3)

Oct. 7, 1941. J. Q. SHERMAN 2,257,766

SERIES CONNECTED ENVELOPE AND CHECK

Original Filed April 2, 1936

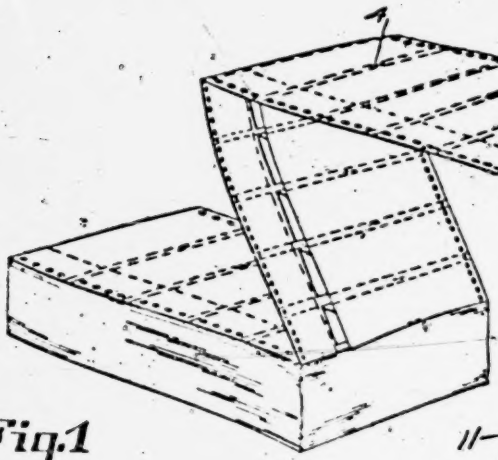

Fig. 1

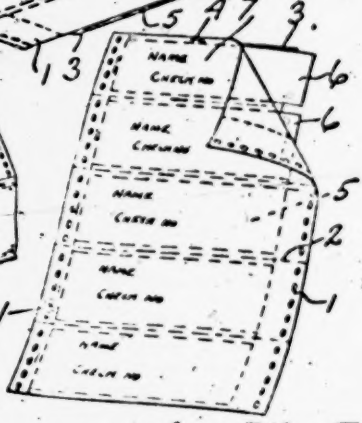

Fig. 3

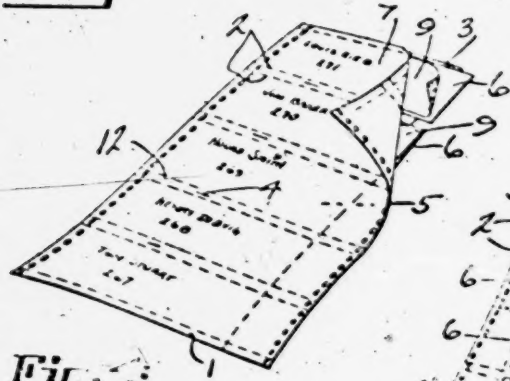

Fig. 4

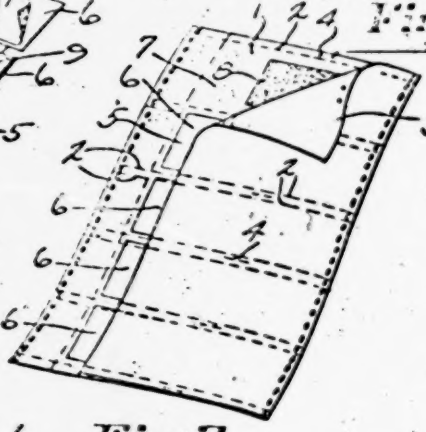

Fig. 2

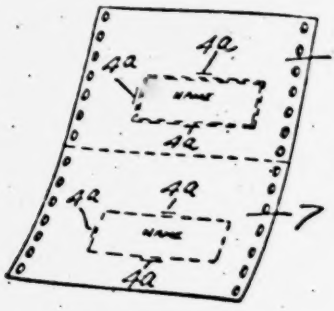

Fig. 6

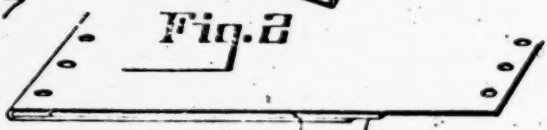

Fig. 5

INVENTOR

J. Q. Sherman

BY

J. L. Walker

ATTORNEY

Patented Oct. 7, 1941 2,257,766

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UNITED STATES PATENT OFFICE

2,257,766

SERIES CONNECTED ENVELOPE AND CHECK

John Q. Sherman, Dayton, Ohio; Katherine M. Sherman, William C. Sherman, and Wellmore B. Turner executors of said John Q. Sherman, deceased

Application April 2, 1936, Serial No. 72,399
Renewed March 1, 1940

38 Claims. (CL 282—3)

his invention relates to manifolding systems assemblies of material, and more particu- to a stationery and envelope assembly rein by a single writing operation data sheets, ks, bills, order blanks, or the like may be ribed and either all or a portion of the in- otion thereon simultaneously reproduced n an underlying envelope to subsequently re- the record slip.

The present manifolding assembly a contin- ip of detachably interconnected record which may comprise a succession of bills, order blanks, or data sheets, car- associated therewith a corresponding series of envelopes, one for each detachable portion of the carrier strip, either positioned in pockets on the rear side of such strip of series connected stationery, or detachably secured thereto.

The backs of successive detachable portions of the carrier strip are carbon spotted, or slips of transfer material are interposed between the stationery and the envelopes to effect a transfer from the inscribed slip or form to the envelope of at least a portion of the inscription being written thereon.

The strip of series connected stationery portions, by which the succession of envelopes is carried, is marginally punched for engagement of pin type feeding means for positively advancing the stationery strip and accompanying envelopes simultaneously past a writing position.

The object of the invention is to provide a manifolding assembly of envelopes and "filler" slips or sheets for use therein, which may be economically manufactured and which will enable forms such as bills, checks, order blanks, form letters, or the like, and accompanying envelopes to be easily and quickly correspondingly inscribed in a conventional writing or computing machine.

A further object of the invention is to minimize the labor of inscribing related data sheets and envelopes therefor and to insure exact correspondence thereof and avoid liability of errors.

A further object of the invention is to maintain related inscribed envelopes and filler sheets therefor in association with each other until combined, thereby avoiding possibility of transposition or insertion of filler sheets in the wrong envelopes.

A further object of the invention is to enable data sheets and corresponding envelopes to be rapidly fed through a writing machine and inscribed therein without loss of time in assembling separate parts and without the necessity of inserting them into and removing them individually from the writing machine.

A further object of the invention is to economize time and operations.

With the above primary and other incidental objects in view, as will more fully appear in the specification, the invention consists of the features of construction, the parts and combinations thereof, and the mode of operation, or their equivalents, as hereinafter described and set forth in the claims.

Referring to the accompanying drawing wherein is shown the preferred but obviously not necessarily the only form of embodiment of the invention,

Fig. 1 is a perspective view of a packet of assembled envelopes and filler sheets therefor in continuous series connected form embodying the present invention.

Fig. 2 is a reverse view of a portion of the envelope and filler sheet assembly.

Fig. 3 is a further perspective view thereof.

Fig. 4 is a perspective view of a modification showing transfer slips of carbon material associated with the envelopes.

Fig. 5 is a perspective view illustrating a further modification.

Fig. 6 is a transverse sectional view upon somewhat exaggerated scale.

Like parts are indicated by similar characters of reference throughout the several views.

For purpose of illustration, but with no intent to unduly limit the application or scope of the invention, it has been illustrated as embodied in a continuous assembly of series connected detachable checks to be used as pay checks or the like and accompanying pay envelopes, both to be inscribed with the name of the payee and perhaps with his address, department, or employment identification number, or such other indicia as may be found convenient or desirable.

It is to be understood, however, that the invention is not limited to inscribing pay checks and pay envelopes for reception of such checks, but may be used by utilities for inscribing gas, electric light, or water bills and simultaneously addressing the envelopes in which such bills or statements are to be mailed. The invention is also applicable to other purposes such as inscribing order blanks and their accompanying envelopes or for filling in the name and address of the addressee of form letters, the bodies of which may have been inscribed or imprinted in automatic writing or imprinting machines. Therefore, for the purpose of this description, the de-

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tachable succession of stationary portions, whether they be checks, bills, order forms, letters, or the like, will be referred to generically as filler slips for insertion in the accompanying envelopes whether the envelope be for interdepartmental use, or for mail purposes, or as a pay envelope. It is also to be understood that the present assembly may include individual record cards or slips removably carried by the carrier strip or continuity of series-connected stationary portions either as a substitute for the envelope or in addition thereto, in which case the back of the card or slip would be carbon spotted or an additional slip of transfer material would be interposed between such card or slip and the adjacent record receiving surface.

Referring to the accompanying drawing, 1 is a continuous strip of stationary material provided at spaced intervals with transverse division lines 2, upon which the strip is divisible into a succession of individual checks, bills, sheets, letters, or the like. The strip 1 is of double thickness throughout at least a portion of its width. The underlying ply 3 may be either an integral portion of the strip 1 folded longitudinally into underlying relation in fan-fold style, or it may be a separate strip of less width upon which the stationary strip 1 is superposed. The underlying ply is united with the stationery strip at spaced intervals, preferably coincident with the transverse weakened division lines 2 by means of staples 4, or other suitable means, to form on the under side of the stationery strip 1 a succession of pockets 5, one for each of the detachable portions of the strip 1.

Removably positioned within such pockets 5 are envelopes 6. The backs of the detachable checks, bills, slips, or forms 7 are carbon spotted as at 8 with transfer material whereby an inscription imprinted upon the face of the detachable stationery portion 7 will be reproduced upon the envelope 6 within the pocket 5.

In lieu of carbon spotting the back of the check or other filler slip 7, or in the event that a record card is to be inserted within the pocket 5 additional to the envelope, slips 9 of transfer material may also be inserted within the pockets 5 between the overlying filler slip and the enclosed envelope or card as the case may be.

For purpose of positively advancing the manifolding assembly through a writing machine, the margins of the stationery strip 1 are punched at spaced intervals for engagement of pin type feeding means of a writing or computing machine. The stationery or carrier strip 1 is preferably, although not necessarily, provided with longitudinal weakened lines 11 upon which the punched margins may be detached after inscription of the filler slips 7 and accompanying envelopes 6 has been completed.

In the event that the staples 4 are positioned upon the transverse weakened lines 2 upon which the stationery or carrier strip is divisible into succeeding sheets or filler slips, the act of so dividing the strip after inscription of succeeding portions automatically removes the staples and releases the backing portion 3. However, the stationery strip may be stapled within a waste portion 12 intermediate spaced transverse weakened lines 2, as shown in Fig. 4.

In lieu of either such arrangement, the stationery strip 1 and underlying backing portion 3 may be stapled together at any desired position to provide a pocket to receive an envelope or record card in registry with any portion of the stationery filler slip to be inscribed. Such construction is illustrated in Fig. 5, wherein the filler slip is of somewhat larger size than that of the envelope. In the event that the stationery filler slips comprise a succession of form letters to be inscribed with the name and address of the addressee, the envelope receiving pocket would ordinarily be defined by the staples 4a. By the construction illustrated in Fig. 5, the envelope receiving pocket may be variously located with relation to the relatively large filler slip according to whatever position the inscription is to be made.

While wire staples 4 have been illustrated in the drawings as the means for forming and defining the envelope and card receiving pockets 5, it is to be understood that any other suitable method or means of attachment may be employed such as thread stitching, or by interlocking tongues, or portions projected from one ply of the carrier or stationery strip into the other, or by means of weak or easily broken adhesive. There is no intent nor desire to limit the construction to the specific features illustrated.

If so desired the stationary assembly heretofore described may be accompanied through the writing machine by a separate data or record sheet upon which the inscribed matter is manifolded by use of interleaved transfer material. Such accompanying record sheet may be advanced at the same rate of speed as the stationery assembly forming the subject matter hereof, or the stationery assembly and the record sheet may be differentially advanced at different speeds by employing a writing machine of the character shown in copending application Serial Number 23,480, filed June 26, 1935.

From the above description it will be apparent that there is thus provided a device of the character described possessing the particular features of advantage before enumerated as desirable, but which obviously is susceptible of modification in its form, proportions, detail construction and arrangement of parts without departing from the principle involved or sacrificing any of its advantages.

While in order to comply with the statute, the invention has been described in language more or less specific as to structural features, it is to be understood that the invention is not limited to the specific features shown, but that the means and construction herein disclosed comprise the preferred form of several modes of putting the invention into effect, and the invention is therefore claimed in any of its forms or modifications within the legitimate and valid scope of the appended claims.

Having thus described my invention, I claim:

1. A manifolding assembly including a continuous strip of series connected detachable stationery portions, a pocket formed on the under side of each portion, an individual duplicate record portion and an interposed stratum of transfer material in said pocket by which indicia inscribed upon the face of said detachable portion of said strip will be reproduced upon the duplicate record portion within the pocket.

2. In a manifolding assembly, a succession of series connected detachable inscription receiving portions, a series of loosely individual record receiving portions disposed with their record receiving faces coincident with the rearward side of the series connected inscription receiving portions, one for each of said series connected portions, means for maintaining corresponding

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series-connected and individual portions in association with each other during their passage through a writing machine.

3. In a manifolding assembly, a succession of series connected detachable inscription receiving sheets to be progressively advanced past a writing position, a series of loosely individual duplicate record portions disposed with their record receiving faces coincident with the rearward side of the series connected inscription receiving portions, and means for maintaining each separate duplicate record portion in association with a particular series-connected inscription receiving sheet for unison movement past the writing position.

4. A series connected stationery assembly for use in a writing or imprinting machine, including a continuous record receiving carrier strip divisible at longitudinally spaced intervals into a succession of independent record units after inscription thereof to be progressively advanced past a writing position, and a series of loosely individual record receiving portions underlying the series-connected inscription receiving portions in prelocated relation therewith, and with their record receiving faces coincident with the rearward side of the continuous detachable inscription receiving portions, and a stratum of transfer material interposed between each of said series connected inscription receiving portions and the individual record portion underlying each inscription receiving portion.

5. In a manifolding assembly, a succession of series connected detachable inscription receiving slips, a succession of loosely individual duplicate record elements underlying the series of impression receiving elements and with their record receiving faces coincident with the rearward side of the continuous detachable inscription receiving portions, a stratum of transfer material interposed between each inscription receiving slip and underlying duplicate record element therebetween, and means for maintaining the underlying duplicate record elements in registry with predetermined portions of the series connected inscription receiving slips while being advanced past a writing position.

6. A series connected stationery assembly for use in a writing or imprinting machine, including a continuous record receiving carrier strip divisible at longitudinally spaced intervals into a succession of independent record units after inscription thereof to be progressively advanced past a writing position, an envelope detachably secured to the under side of each of said divisible portions of the strip, and a transfer stratum interposed between the strip and each envelope by which at least a portion of the matter inscribed upon the succeeding portions of the strip is transferred to the envelope.

7. In a manifolding assembly, a continuous strip of record material to be progressively advanced past a writing position and having transverse weakened lines upon which the strip is divisible into succeeding portions, means for removably supporting a succession of loosely individual duplicate record elements on the under side of the strip with their record receiving faces coincident with the rearward side of the continuous strip of record material, one in registry with a portion of each of the divisible portions of said strip, and a stratum of transfer material intermediate the strip and each duplicate record element by which at least a portion of the matter inscribed upon succeeding portions of the strip will be transferred to the underlying duplicate record element.

8. In a manifolding assembly, a continuous strip of series connected detachable inscription receiving portions to be progressively advanced past a writing position, an underlying continuous ply of material attached to said strip at spaced intervals and forming therewith a succession of pockets, a succession of separate duplicate record receiving elements in said pockets and disposed with their record receiving faces coincident with the rearward side of the continuous strip of inscription receiving positions, and a stratum of transfer material within each pocket for transferring a portion of the inscription received upon the strip to each pocket contained duplicate record receiving element.

9. In a manifolding assembly, superposed continuous plies of inscription receiving material interconnected at spaced intervals to be progressively advanced past a writing position, a succession of separate individual record receiving elements interleaved between the interconnected plies and having their record receiving faces coincident with the rearward side of a ply of continuous inscription receiving material, and a stratum of transfer material interposed between at least one of the continuous plies and the interleaved individual record receiving elements for transferring to said separate individual record receiving elements interleaved between the interconnected plies a portion of the matter inscribed on the ply contiguous to the transfer material.

10. In a manifolding assembly, a continuous web of material longitudinally folded upon itself to form a strip of double thickness, means interconnecting the plies thereof at spaced intervals, separate individual record receiving elements disposed between the plies of the folded web intermediate the points of interconnection thereof, and portions of transfer material interposed between one of the plies of said folded web and said record receiving elements inserted between the plies.

11. A series connected stationery assembly for use in a writing or imprinting machine, including a continuous record receiving carrier strip divisible at longitudinally spaced intervals upon preformed transverse weakened division lines into a succession of independent record units after inscription thereof and a series of envelopes in relatively spaced succession for unison advancement with the record receiving carrier strip past a writing position, the sheets and envelopes being in superposed relation, means for maintaining assembled relation of the strip and envelopes, and a stratum of transfer material interposed between the strip and each of the accompanying envelopes.

12. In a manifolding assembly, a collection of separate independent envelopes and a continuous strip of series connected detachable record slips insertable in said envelopes when detached from the continuous strip, said strip being marginally punched for feeding engagement with pin type feeding means of a writing machine, and means for detachably supporting the envelopes beneath the continuous strip of record strips for travel past a writing position in unison with the movement of the strip, and a stratum of transfer material interposed between the strip and each envelope by which matter inscribed on the strip will be reproduced upon an underlying envelope.

13. In a manifolding assembly, a web of ma-

terial longitudinally folded upon itself and transversely divisible into separate filler slips, said folded strip being marginally punched along its opposite longitudinal margins for feeding engagement with pin type feeding means of a writing machine, a plurality of separate envelopes into which the filler slips may be inserted after division into separate slips interleaved in a longitudinal succession within the fold of the web and carried thereby past the writing position of a writing machine, and transfer material interposed between the uppermost ply of the folded web and the envelopes for reproducing upon the envelopes at least a portion of the matter inscribed on the web.

14. In a manifolding assembly, a plurality of continuous superposed plies of material, interconnected one with the other, at least one of which is marginally punched for feeding engagement with pin type feeding means of a writing machine and a plurality of separate envelopes interleaved in a longitudinal succession between the superposed plies of material and carried thereby past the writing position of a writing machine, and transfer material interposed between at least one of the plies and the envelopes for reproducing thereon at least a portion of the matter inscribed on one of said plies.

15. In a manifolding assembly, a continuous strip of inscription receiving material having transverse weakened lines upon which the strip is divisible into succeeding slips for insertion into envelopes, a series of separate envelopes of less width than the strip removably secured in longitudinal succession to the under side of the strip, said strip being marginally punched for feeding engagement with pin type feeding means by which the strip and associated envelopes may be advanced in unison past the writing position of a writing machine, said strip further having longitudinally disposed weakened lines upon which marginally punched portions of the strip are removable to reduce the slips into which the strip is divisible to approximately the width of the envelopes, and transfer material disposed intermediate the strip and envelopes to reproduce upon the envelopes at least a portion of the matter inscribed upon the strip.

16. A series connected stationery assembly for use in a writing or imprinting machine, including a continuous record receiving carrier strip divisible at longitudinally spaced intervals upon preformed transverse weakened division lines into a succession of individual filler slips after inscription thereof for insertion into individual envelopes, and a longitudinal succession of envelopes to receive the slips associated therewith, each slip and envelope being disposed in superposed relation, the individual slips and corresponding envelopes being interconnected for unison travel motion past a writing position, and transfer material interposed between the slips and envelopes to effect duplication upon the envelopes of at least a portion of the matter inscribed upon the slips.

17. In a manifolding assembly, a continuous web of material longitudinally folded upon itself at one edge thereof to form a strip of double thickness less in width than that of the web, means interconnecting the plies thereof at spaced intervals to form pockets, removable separate record receiving elements in the pockets and having record receiving faces coincident with the rearward face of the web, and a stratum of transfer material interposed between the rearward face of the web and the separate elements.

18. In a manifolding assembly, a continuous web of record material longitudinally folded upon itself, at one edge thereof to form a strip of double thickness less in width than that of the web, means interconnecting the plies thereof at spaced intervals to form pockets, envelopes disposed in the pockets with their record receiving faces coincident with the rearward face of the web, and a stratum of transfer material interposed between the rearward face of the web and the adjacent faces of the envelopes.

19. A manifolding assembly of series connected envelopes and corresponding record slips for use in a writing machine having a pin type feeding device consisting of a series of individual envelopes held together in a continuous succession, and an associated series of individual record slips detachably engaged with corresponding envelopes, there being at least one slip engaged with each envelope, a portion of said assembly being provided with cut-out areas for engagement of the pin type feeding device of the writing machine.

20. A manifolding assembly of series connected envelopes and corresponding record slips for use in a writing machine having a pin type feeding device consisting of a series of individual envelopes held together in a continuous succession, and a continuous strip of series connected corresponding individual record slips separable on transverse division lines at longitudinally spaced intervals, the slips and envelopes being superposed one upon the other to receive duplicate inscriptions, said strip having therein a succession of longitudinally spaced cut-outs to receive the pin type feeding device of the writing machine.

21. A manifolding assembly of series connected envelopes and corresponding record slips for use in a writing machine having a pin type feeding device consisting of a series of individual envelopes held together in a continuous succession, and a series of individual record slips also held together in a continuous succession, the corresponding slips and envelopes being superposed one upon the other for reception of manifold inscriptions, said assembly including a portion having therein a succession of longitudinally spaced cut-out areas for engagement of the pin type feeding device of the writing machine.

22. A continuous manifolding assembly of envelopes and corresponding record strips to receive manifold inscriptions in a writing machine including a continuous strip of record material divisible upon transverse weakened lines at longitudinally spaced intervals into a series of individual record slips, a plurality of individual envelopes detachably connected with said record strip in a continuous sequence, there being an envelope associated with each series connected record slip, and interleaved transfer material by which an inscription on one corresponding member will be reproduced upon the other.

23. A continuous manifolding assembly of envelopes and corresponding record strips to receive manifold inscriptions, in a writing machine including a plurality of individual envelopes detachably interconnected into a continuous series and a continuous strip of record material to which the envelopes are detachably attached at longitudinally spaced intervals, said strip being transversely divisible at longitudinally spaced intervals into a succession of individual record

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slips and interleaved transfer material by which duplicate inscriptions may be produced upon the corresponding envelopes and record slips.

24. A continuous manifolding assembly of envelopes and corresponding record strips for use in a writing or imprinting machine having a pin type feeding device including a plurality of individual envelopes detachably interconnected into a continuous series, and a continuous strip of series connected record slips to which the envelopes are detachably attached in superposed relation, at longitudinally spaced intervals, said strip being transversely divisible at longitudinally spaced intervals into individual record slips, at least one of said series of members being provided with a succession of longitudinally spaced holes for engagement of a pin type feeding device.

25. A continuous manifolding assembly of envelopes and corresponding record strips for use in a writing or imprinting machine having a pin type feeding device including a plurality of individual envelopes detachably interconnected into a continuous series, and a continuous strip of series connected record slips to which the envelopes are detachably attached in superposed relation, at longitudinally spaced intervals, said strip being transversely divisible at longitudinally spaced intervals into individual record slips, said strip being provided with a succession of longitudinally spaced holes for engagement of a pin type feeding device.

26. A series-connected stationery assembly for use in a writing or imprinting machine of the type wherein a strip feeding device has positive engagement with a strip for advancing the same relative to a record receiving position, including a plurality of separate individual record receiving portions arranged in a continuous succession, a continuous record receiving carrier strip divisible at longitudinally spaced intervals upon preformed transverse weakened division lines into a succession of independent record units, with each of which an individual record receiving portion is detachably engageable, and holding means on series-connected detachable record receiving units of the carrier strip loosely retaining individual record receiving portions in duplicate record receiving and unison travel relation therewith, said carrier strip having therein longitudinally spaced configurations for engagement of the strip feeding device therewith for presenting successive series-connected detachable record receving units of the carrier strip and associated individual record receiving portions simultaneously in record receiving relation with the writing or imprinting machine.

27. A series-connected stationery assembly for use in a writing or imprinting machine of the type wherein a strip feeding device has positive engagement with a strip for advancing the same relative to a record receiving position, including a continuous strip of series-connected detachable record receiving units divisible at longitudinally spaced intervals on preformed transverse weakened division lines, having therein a succession of longitudinally spaced configurations for operative engagement therewith of the strip feeding device, a plurality of separate record receiving portions arranged in a continuous succession, and locating means carried by succeeding separable units of the strip with which separate record receiving members are loosely associated in manifolding relation with corresponding units of the strip for unison travel therewith past the record receiving position of the writing or imprinting machine.

28. A series-connected stationery assembly for use in a writing or imprinting machine of the type wherein a strip feeding device has positive engagement with a strip for advancing the same relative to a record receiving position, including a continuous strip of series-connected detachable record receiving units divisible at longitudinally spaced intervals on preformed transverse weakened division lines, having therein a succession of longitudinally spaced configurations for operative engagement therewith of the strip feeding device, a plurality of separate individual record portions and a longitudinal succession of carrying devices upon the strip for loosely engaging the separate record portions with the carrier strip for unison advancement by the strip feeding means having engagement with the longitudinally spaced conformations by which the individual record portions and corresponding units of the strip are successively presented in a record manifolding position of a writing or imprinting machine.

29. A series-connected stationery assembly for use in a writing or imprinting machine of the type wherein a strip feeding device has positive engagement with a strip for advancing the same relative to a record receiving position, including a series of separate record receiving portions arranged in a continuous succession, a carrier strip therefor divisible at longitudinally spaced intervals into a succession of individual record receiving portions, a series of longitudinally spaced conformations in the strip for engagement of the strip feeding device of the machine and associated means for detachably holding the separate record receiving portions in manifolding relation with corresponding divisible record receiving portions of the carrier strip during advancement by the strip feeding device past the record receiving position of a writing and imprinting machine, the construction and arrangement being such that duplicate records are produced simultaneously upon divisible sections of the strip and separate record receiving portions associated therewith.

30. A manifolding assembly, including superposed continuous plies of material interconnected with each other or longitudinal and relatively spaced transverse lines to form a continuous interconnected series of envelopes, an additional ply of material in superposed relation with each envelope, a succession of longitudinally spaced transverse weakened registering division lines in the respective continuous plies upon which the assembly is divisible intermediate succeeding envelopes into successive sets, and a stratum of transfer material interposed between the continuous plies forming the envelopes and the ply in superposed relation with each envelope, said assembly being zigzag folded into a flat packet.

31. A manifolding assembly, including a single continuous strip of material having one side portion reversely folded upon a fold line longitudinally of the strip into superposed relation with a parallel portion thereof and attached thereto at longitudinally spaced intervals to form a continuous series of envelopes, an additional ply of material disposed in superposed relation with each envelope assembly, a stratum of transfer material interposed between the single continuous strip of material forming the series of envelopes and the ply in superposed relation with each envelope assembly, and registering trans-

verse weakened division lines in the continuous strip of material intermediate succeeding envelopes thereof upon which the assembly is divisible into separate sets.

32. A series-connected stationery assembly for use in a writing or imprinting machine of the type having a positive strip feeding device progressively engageable therewith for advancing the same past a record receiving position, including a continuous integral marginally punched strip of material divisible on transverse weakened lines into a succession of sections and a succession of pockets formed on said strip intermediate succeeding transverse division lines beyond which the punch margin of the strip extends, the construction and arrangement being such that the strip is transversely divisible on the transverse weakened lines intermediate succeeding pockets into a succession of independent envelopes.

33. A series-connected stationery assembly for use in a writing or imprinting machine of the type having a positive strip feeding device progressively engageable therewith for advancing the same past a record receiving position, including superposed plies of material attached one to another at longitudinally spaced intervals, at least one of which is integral and continuous, longitudinally spaced transverse weakened division lines upon which the assembly is divisible substantially coincident with spaced attachment intervals into a succession of individual envelopes, and at least one margin of the assembly having therein a succession of longitudinally spaced configurations for engagement of a strip feeding device by which the assembly may be progressively advanced through a writing or imprinting machine before division into individual envelopes.

34. A series-connected stationery assembly for use in a writing or imprinting machine of the type having a positive strip feeding device progressively engageable therewith for advancing the same past a record receiving position, comprising a continuous succession of series-connected detachable envelope units including at least one marginally punched integral continuous strip divisible on transverse longitudinally spaced weakened division lines intermediate succeeding envelopes.

35. A series-connected stationery assembly for use in a writing or imprinting machine of the type having a positive strip feeding device progressively engageable therewith for advancing the same past a record receiving position, comprising a continuous succession of series-connected detachable envelope units, transverse longitudinally spaced weakened division lines upon which the assembly is divisible intermediate succeeding envelope units, a detachable marginal area for operative engagement therewith of the strip feeding device, and a longitudinal weakened division line upon which the marginal feeding area is detachable from the envelope units.

36. A series-connected stationery assembly for use in a writing or imprinting machine of the type having a positive strip feeding device progressively engageable therewith for advancing the same past a record receiving position, comprising a continuous succession of series-connected detachable envelope units, a continuous record receiving carrier strip divisible at longitudinally spaced intervals upon preformed transverse weakened division lines into a succession of independent record units and a detachable portion associated with each envelope unit and record receiving carrier strip for operative engagement therewith of the strip feeding device.

37. A manifolding assembly, including a plurality of superposed plies of material, at least two of which are interconnected with each other on longitudinal and longitudinally spaced transverse lines to form a succession of interconnected envelope pockets, and a succession of longitudinally spaced registering transverse weakened lines in the respective plies intermediate succeeding envelopes of the series upon which the assembly is divisible into separate units, separate individual record receiving elements disposed between the plies intermediate the points of interconnection thereof, and portions of transfer material interposed between one of the plies and the record receiving elements inserted between the plies.

38. A manifolding assembly, including a plurality of superposed plies of material, at least two of which are interconnected with each other on longitudinal and longitudinally spaced transverse lines to form a succession of interconnected envelope pockets, and at least one other ply of which, individual to and disposed in overlying relation with each of the succession of envelopes, is adapted to receive record inscriptions duplicating those produced upon corresponding envelopes, and a succession of longitudinally spaced registering transverse weakened lines in the interconnected plies intermediate succeeding envelopes of the series upon which the assembly is divisible into separate units.

JOHN Q. SHERMAN.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971.

No. 71-54

MOORE BUSINESS FORMS, INC.,
Petitioner.

vs.

UARCO INCORPORATED,
Respondent.

BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI.

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THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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To The Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States:

OPINIONS BELOW.

The opinion of the Court of Appeals in this cause has now been officially reported at 440 F. 2d 580. While the Court of Appeals has held the patent valid, the issue of infringement was remanded to the District Court for decision.

JURISDICTION.

The jurisdiction requisites are adequately presented in the petition.

QUESTIONS PRESENTED.

Respondent's main question presented may be stated thusly: Because the Court of Appeals for the Seventh Circuit since January, 1966, has held valid approximately 45% of all patents considered by it, that Court must be applying an incorrect standard for judging obviousness under 35 U. S. C. § 103. The question is based on unofficial data outside the record in this case and ignores Supreme Court decisions such as *United States* v. *Bert N. Adams et al.*, 383 U. S. 39 (1966); *Goodyear Tire & Rubber Company, Inc. et al.* v. *Ray-O-Vac Company*, 321 U. S. 275, 278, 279 (1944); and *Graver Tank & Manufacturing Company, Inc. et al.* v. *Linde Air Products Company*, 336 U. S. 271 (1949), judgment adhered to at 339 U. S. 605, which hold patents valid on inventions satisfying the patent statutes.

Petitioner's subsidiary questions assume bases for the decision of the Court of Appeals not reasonably nor rationally obtainable from reading the decision of that Court.

CONSTITUTIONAL PROVISION AND STATUTE INVOLVED.

These are adequately set forth in the petition.

STATEMENT OF THE CASE.

The statement made by petitioner is incomplete in several respects. This case is an ordinary patent infringement suit case routine in every respect, and is completely devoid of any unusual aspect or issue which in any way deserves or requires the attention of this Court.

The only issue involved is the validity of one patent. The issue of infringement awaits further action in the trial court.

Petitioner's statement omits to mention that the product of this patent was commercialized by Uarco Incorporated and in so doing the product displaced no other in the market place. The product was a new one satisfying a need which no other product had heretofore satisfied. A new market was thus created.

Petitioner's statement relative to attorneys' fees awarded in the District Court omits to state that the District Court had denied a Motion for Summary Judgment before Trial based upon the same prior art patents which were the basis for the District Court's decision on obviousness following trial.

REASONS FOR DENYING WRIT.

The petition should be denied.

As will be shown hereinafter, the Court of Appeals reached the conclusion of validity by applying the tests and standards laid down by this Court in *William T. Graham et al.* v. *John Deere Co. of Kansas City et al.*, 383 U. S. 1 (1966), and the standards applicable to combination patents as laid down in *Anderson's Black Rock, Inc.* v. *Pavement Salvage Co., Inc.*, 396 U. S. 57 (1969).

In its petition, petitioner discusses matters falling within two categories. The first relates to what petitioner contends the Seventh Circuit Court of Appeals has or has not done in deciding the validity question in all patent cases that have come before that Court during the period of from February 21, 1966—when the Court handed down its decision in *Graham* v. *John Deere Co.*, *supra*—until September 21, 1970, as compared to what the other nine Circuit Courts of Appeals have done throughout the same period in deciding patent validity issues. The second category relates to what the petitioner contends the Court of Appeals for the Seventh Circuit did and did not do in

reaching the conclusion of validity of the patent in suit in this case.

Petitioner appears to rely on the first category, referred to above, for providing the alleged basis for granting the writ in this case. In so doing, the petitioner, without warrant or factual support, states that the Circuit Court of Appeals for the Seventh Circuit has applied an incorrect standard in holding valid the patent in suit, and infers like errors by the Court with respect to its decisions in all other patent cases during the period referred to—all of which is totally unjustified and without any support whatsoever in the record of the case.

In its petition, petitioner asserts as its sole ground for granting the writ the need for this Court's supervisory guidance for the Circuit Court of Appeals for the Seventh Circuit because, as the petitioner concludes, the asserted statistics* indicate that the Seventh Circuit has held valid 45.6% of the patents considered by it in the above-identified period, whereas the validity holdings in other Circuits are of a different percentage—some lower and one, the Fifth Circuit, higher.

In its effort to support this completely unfounded and unwarranted contention, petitioner makes the following erroneous statements. It asserts that the Court of Appeals is applying an erroneous standard of invention and requires the supervisory guidance of this Court for the reason that:

1. it has adopted ". . . an inconsistent and lower standard of non-obviousness than that adopted by other circuits . . .";

* Derived from Professor Kayton from an unofficial source outside the record of this case referred to only in the dismissed and undecided Petition for Certiorari in No. 1528 of the October 1970 term.

2. it has ". . . handed down decisions that indicate it just is not following this Court's edicts. . . .";
3. it ". . . has been inundated by patent infringement actions, regardless of convenience, and continues to hold valid patents that show but insignificant variations of prior art. . . ."; and
4. ". . . this Court owes the public a duty of supervision over such incredible decisions as those of the Seventh Circuit so that the public will know which way to turn when harassed by insignificant patents."

In addition, petitioner makes the completely erroneous inference that the petitioner speaks not alone but for the public as well. Thus, the petitioner is here making a completely unjustified and unsupported attack on the conduct of the Circuit Court of Appeals for the Seventh Circuit with respect to its handling of all patent cases, and is here urging upon this Court its presumptuous and unfounded assertions—knowing full well that it cannot support its charges and understanding that there is not one jot of evidence to in any way support the charges made.

Petitioner knows that it has no basis for contending (a) that the evidence and law in each and every case referred to as having been decided by the Seventh Circuit Court of Appeals did not in all respects support the findings and conclusions entered in each thereof; (b) that the number of cases decided for and against the validity of patents in the various judicial circuit does not and cannot support the conclusions asserted by petitioner; nor (c) that Professor Kayton's unofficial figures do not establish that the United States Court of Appeals for the Seventh Circuit ". . . has been inundated by patent infringement actions, regardless of convenience, and continues to hold valid patents that show but insignificant variations of prior art. . .".

It is submitted that this kind of irresponsible representation and condemnation of the entire judicial program with respect to patent cases of the Court of Appeals for the Seventh Circuit does not and cannot afford any ground whatsoever for granting the petition submitted in this case.

Petition Outside of Rule 19 of This Court.

Consideration of the record here will show that in this case there is no special or important reason for this Court exercising its judicial discretion with respect to the requested writ of certiorari. There is no appellate court decision here which is in conflict with another Court of Appeals on the same subject matter. Furthermore, there is no important, new question of federal law which should be settled by this Court. Finally, the Court of Appeals for the Seventh Circuit has not so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision.

It is true the petitioner contends there is need for supervisory guidance of this Court over the Court of Appeals for the Seventh Circuit in connection with the standards of patentability applicable to the validity issues in patent cases, but the facts of this case clearly establish that there is absolutely nothing here that supports this contention.

The arguments presented by petitioner do not show error on the part of the Circuit Court of Appeals for the Seventh Circuit in the application of the standard of patentability initiated by this Court in *Graham* v. *John Deere Co.*, *supra*, but, rather, the Court of Appeals meticulously followed the standard there pronounced. Here, petitioner merely objects to the finding of patent validity which resulted when the Circuit Court of Appeals for the Seventh Circuit applied the established standards of *Graham*, *supra*, to the

facts as found in this case. While petitioner vigorously asserts that the Court of Appeals applied an incorrect standard in determining the validity of the patent in suit, its position is based entirely upon alleged facts which are contrary to those found in the record here. Besides, petitioner does not at any time assert that the conduct of the Court of Appeals in this case warrants the granting of the writ, but, rather, that the need for this Court's supervision is found in the standards applied by the Court of Appeals for the Seventh Circuit in all patent cases.

The petitioner's argument is based essentially on a game of numbers or a comparison of percentages of cases decided for and against the validity of patents in the various Circuit Courts of Appeals throughout the United States, and on such basis contends that the Court of Appeals for the Seventh Circuit must have applied the wrong standards in the present case. The error of this argument, however, is apparent—as patentability of all patents is and must be decided on a case-by-case basis and not, as the petitioner would have it, on an average basis for all cases decided through the ten judicial circuits.

There is nothing before this Court that even remotely suggests that the Seventh Circuit Court of Appeals was not entirely correct in its decisions in all of its cases involving the validity of patents; but, more importantly, it is fundamental that whatever the decisions of this Court of Appeals in other cases may have been, such decisions can have no bearing whatsoever on the question as to whether the correct standard was applied in this case.

The present case must rest upon and be decided on its own merits. The correctness of the Court of Appeals decision must be determined on the facts which have been found to control the issues here presented. What may have been decided in other cases in this and other Circuits, in the last analysis can have no place here.

A review of the Seventh Circuit Court of Appeals decision in this case shows, without question, that far from applying an incorrect standard of patentability, the Circuit Court of Appeals followed precisely the rule laid down by this Court in *Graham* v. *John Deere Co., supra.* Reference to the decision of this Court* will show that the Court made the following statements when considering the question of the standard to be applied in adjudging patentability.

The Court first identified and described each of the three reference prior patents (pp. 4a, 5a). The statute 35 U. S. C. 103 was set out (p. 5a). The manner in which obviousness was to be judged and the analytical steps to be taken were quoted from this Court's decision in *Graham* (p. 6a). The criteria set forth in the quoted steps from *Graham* were then discussed with relation to the disclosures of the prior patents (pp. 6a-9a). The level of ordinary skill in the pertinent art was determined (p. 8a). The fact that the disclosures of the prior patents were in no way combinable to produce the invention so that non-obviousness was the logical conclusion to be drawn was set forth by the Court (p. 9a). The Court's decision ends with the statement that the invention fulfilled the non-obvious criteria of 35 U. S. C. 103 (p. 9a).

While petitioner ascribes to the Court of Appeals a decision under 35 U. S. C. 103 different from that of the Court of Customs and Patent Appeals it is apparent that the decisions of that Court and of the Court of Appeals are both in harmony with the decision of this Court in *Graham.* The Court of Customs and Patent Appeals in the *Application of Robert W. Bodley,* 426 F. 2d 390 at 394 quotes its own statement from *In re Rosselet,* 347 F. 2d 847, 52 CCPA 1533 (1965):

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* Particularly pages 5a to 9a, Appendix to Petition for Certiorari.

> "* * * it is our view that the test of obviousness is not express suggestion of the claimed invention in any or all of the references but rather what the references taken collectively would suggest to those of ordinary skill in the art * * *"

An examination of the Court of Appeals decision (pp. 6a-9a) shows: that the Steidinger patent differed from the prior art (p. 7a); that Steidinger's construction included a unique insert ply not found in any of the art (p. 8a); that if the prior art were to be combined, parts essential thereto would have to be discarded (p. 9a); and that even after being combined the art would lack capabilities displayed by the patent in suit (p. 9a).

From the detailed description of the prior art and patent in suit, it is apparent that the Court of Appeals properly decided the issue of non-obviousness in this case.

Relative to commercial success, Petitioner claims the decision by the Court of Appeals is contrary to the decision of this Court in *Thoger Gronberg Jungersen* v. *Ostby & Barton Company et al.*, 335 U. S. 560. It is respectfully submitted that *Jungersen* merely says that commercial success is no substitute for invention. The Court of Appeals' decision (p. 11a) as to the success of the invention meets the test set forth by this Court in *Goodyear Tire & Rubber Company, Inc. et al.* v. *Ray-O-Vac Company*, 321 U. S. 275 (1944) at 278 and 279.

SUMMARY AND CONCLUSION.

This petition merely presents a plea that this Court review the merits of a decision of the lower Court in a civil patent litigation having no interest beyond the parties directly involved. To bolster its petition, an allegation is made that the Seventh Circuit Court of Appeals has in several cases since January, 1966, not followed this Court's

decision in *Graham* v. *Deere*. The petition presents no compelling reason why certiorari should be granted. The petition should be denied.

Respectfully submitted,

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August 27, 1971.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-54

MOORE BUSINESS FORMS, INC., *Petitioner,*

v.

UARCO INCORPORATED, *Respondent.*

REPLY AND SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

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IN THE

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OCTOBER TERM, 1971

No. 71-54

MOORE BUSINESS FORMS, INC., *Petitioner,*

v.

UARCO INCORPORATED, *Respondent.*

REPLY AND SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

In its Brief in Opposition, Respondent claims that Petitioner has made an unjustified and unsupported attack on the conduct of the Seventh Circuit Court of Appeals. Petitioner has not attacked that or any court; it has merely presented facts to show that the Seventh Circuit is out-of-step with the other circuits.*

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* Since the petition in No. 1528 of the October, 1970 term to which reference was made in this petition has been dismissed, the pages referred to there from *The Crisis of Law in Patents*, Kayton, I., Patents Resources Group, Washington, D.C. 1970, showing the disparity of Seventh Circuit patent decisions, are reproduced at the end of these Reply and Supplemental Briefs. Thus the Seventh Circuit has held 31 patents valid since the Trilogy while second place goes to the Fifth Circuit with 16.

While certainly the article by Mr. Kayton, a professor of law at George Washington University, is unofficial, there is no official publication. Moreover, Professor Kayton's compilation has not been traversed by respondent. This is because the compilation is substantially correct: The Seventh Circuit has held more patents valid since *Graham*, 383 U.S. 1 (1966) than seven other circuits combined, and this includes the populous and litigious Second Circuit.

Rule 19(1)(b) of the Rules of the Supreme Court of the United States (1970) recites that an exemplary reason for considering the granting of a writ is "[w]here a court of appeals has rendered a decision in conflict with the decision of another court of appeals on the same matter . . ." If "matter" can refer to questions of patent validity generally, then the Seventh Circuit certainly rendered decisions not only extremely pro-patent but decidedly in conflict with similar decisions by other circuits.

Perhaps it is beneficial that Chicago patent attorneys enjoy a heavy case load while a patent infringement action in their home town is a rarity for attorneys in St. Louis and Minneapolis (8th Cir.—no patents held valid since Trilogy), but is it beneficial to Chicago patent attorneys or litigants? Administration of the law, it is submitted, must be conducted for the litigants, not their attorneys. An analogy to the mass resentment of negligence attorneys toward no-fault accident insurance is inescapable.

The solution to the present patent proclivities of the Seventh Circuit is not caustic derision of that circuit, but the establishment and reestablishment of guidelines on the question of patent invalidity for obvious-

ness under 35 U.S.C. § 103. Disregard by the Supreme Court can only intensify the anarchy in patent decisions by courts of appeal. Truly, is there any other field of law in which the courts of appeal differ so overwhelmingly with respect to their treatment of litigation?

On what type of cases should this Supreme Court grant certiorari? The answer must be: cases where the subject matter in issue is simple. There is only so much time available. For this court to spend days learning details of chemical formulae or electrical circuit diagrams would be prodigal. The path to uniform justice in patent decisions can be just as easily designated by reference to patents the subject matter of which can be understood on five minutes perusal.

The subject of the patent in suit is simplicity itself. The "invention" may be likened to a common roll of 8¢ stamps, each of which is joined to adjacent stamps along a line of perforations. One prior art patent shows the same roll but with 6¢ stamps; another prior patent discloses a single 8¢ stamp. Would this court find it obvious to substitute 8¢ stamps for 6¢ stamps in the roll? The chief Judge of the Northern District of Illinois so held and awarded attorney fees because the patent owner should not have even brought the case to trial. The Court of Appeals, first relying on the spurious concept of a "combination of references" while disregarding § 103 of the Patent Act, then on commercial success never attributed to what was claimed in the patent, found the substitution bewildering and held the patent valid. There is no better case for this court to begin its requirement of substantial uniformity among circuits than that now before it on this petition.

SUPPLEMENTAL BRIEF

Since the petition herein was filed, the petitioner has become aware of a declaratory judgment action based on the same patent held valid here by the Seventh Circuit. That is Civil Action 36658, *Perry Printing Co.* v. *Uarco, Inc.,* filed in the U.S. District Court for the Eastern District of Michigan on June 15, 1971, well after the Seventh Circuit decision had been published. Since Michigan is in the Sixth Circuit, not nearly so pro-patent as the Seventh Circuit, the Sixth Circuit Court of Appeals will now have an opportunity to pass on the validity of Uarco's patent. Yet, contrary to *Blonder-Tongue Laboratories, Inc.* v. *University of Illinois Foundation,* 402 U.S. —— (No. 338—October Term, 1970, decided May 3, 1971), any such conflict that will arise after the Sixth Circuit holds the patent invalid will not aid the present petitioner, as to whom the patent will be valid. In view of the continuing litigation of the validity of the patent here in issue, a review by this Court now will determine patent validity not only between petitioner and respondent, but between respondent and the other litigants who have and may challenge the Uarco patent in the future.

Respectfully submitted,

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APPENDIX

From the Crisis of Law in Patents

By

Professor Irving Kayton

of

The George Washington University

(Published, October, 1970, by Patent Resources Group, Washington, D.C.)

(NOTE: The term "*Trilogy*" is a shorthand expression used by Professor Kayton to refer to the *Graham*, *Calmar*, and *Adams* decisions, all of which were decided by this Court on the same day, February 21, 1966.)

COURT OF APPEALS PATENT VALIDITY AND INFRINGEMENT HOLDINGS AS REPORTED IN *U. S. P. Q.*

(After *Trilogy* and Up To and Including September 21, 1970)

Circuit No.	Valid	Valid and Infringed	Valid but Infringement Not Yet Decided
1	33.3% (3/9)	11.1% (1/9)	——
2	23.0% (6/26)	15.4% (4/26)	——
3	27.7% (5/18)	5.5% (1/18)	17.6% (3/18)
4	13.6% (3/22)	9.1% (2/22)	——
5	51.8% (16/31)	42.0% (13/31)	——
6	35.2% (6/17)	17.6% (3/17)	——
7	45.6% (31/68)	32.4% (22/68)	2.9% (2/68)
8	00.0% (0/17)	00.0% (0/17)	——
9	16.3% (8/49)	6.1% (3/49)	——
10	14.3% (1/7)	14.3% (1/7)	——
D. C.	20.0% (1/5)	20.0% (1/5)	——
Totals and Averages .	29.8% (80/269)	19.0% (51/269)	1.8% (5/269)

PATENT RESOURCES GROUP
Washington, D. C.
October 20, 1970

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-54

MOORE BUSINESS FORMS, INC., *Petitioner,*

v.

UARCO INCORPORATED, *Respondent.*

PETITION FOR REHEARING OF DENIAL OF PETITION FOR CERTIORARI

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-54

MOORE BUSINESS FORMS, INC., *Petitioner,*

v.

UARCO INCORPORATED, *Respondent.*

PETITION FOR REHEARING OF DENIAL OF PETITION FOR CERTIORARI

This petition respectfully seeks rehearing by this Court of the petition for writ of certiorari to the United States Court of Appeals for the Seventh Circuit filed herein. The petition was denied on October 12, 1971, with the notation that Justices Douglas and Blackmun would grant the petition. An important new fact has just come to petitioner's attention. Also in all candor, petitioner understands that a "rule of three" is now in effect because only seven Justices are presently sitting. Petitioner earnestly seeks the concurrence of one additional Justice that the petition be granted.

The new fact of which petitioner has just been apprised since October 12, 1971, is this: still another

declaratory judgment action has been filed with respect to the Uarco patent which the Chief Judge of the District Court for the Northern District of Illinois found invalid but the Court of Appeals held valid.

In brief, on March 30, 1971, the Seventh Circuit Court of Appeals held the patent in suit valid. This petition followed. It has just been learned that on June 3, 1971, an action seeking, *inter alia*, a declaration that the same Uarco patent is invalid was filed in the District Court for the Southern District of New York under 71 Civ. 2500. It is entitled *Transkrit Corp.* v. *Uarco Inc.* As previously noted, on June 15, 1971, Civil Action No. 36658, *Perry Printing Co.* v. *Uarco Inc.*, was filed in the District Court for the Eastern District of Michigan. It also seeks a declaration that the same Uarco patent is invalid. Both declaratory judgment actions were filed more than two months after the Seventh Circuit's holding that the Uarco patent is valid; in both cases the complaint alleged as a basis of invalidity that the subject matter of the patent is obvious under 35 U.S.C. § 103.

It is apparent that, recognizing the startling difference in interpreting "obviousness" by the pro-patent Seventh Circuit, and the Second and Sixth Circuits, which have much less regard for patents, plaintiffs believe that the Uarco patent will not be held valid in the Second and Sixth Circuits. Incidentally, plaintiffs in both declaratory judgment actions are represented by esteemed and respected patent firms, which apparently believe the Seventh Circuit will not be followed.*

* Transkrit Corp. is represented by Kenyon & Kenyon, Reilly, Carr and Chapin, New York, N. Y. Perry Printing Co is represented by Harness, Dickey & Pierce, Detroit, Michigan.

Thus, there is a strong likelihood that the reverse of *Blonder-Tongue Laboratories, Inc.* v. *University of Illinois Foundation*, 402 U.S. (No. 338-October Term, 1970; decided May 3, 1971), will be presented to this Court at some time in the future. This will not help the present petitioner, who will be the only party in the United States that will have been compelled to pay tribute to the Uarco patent. Is now not the time to determine the validity of the Uarco patent without having lower courts burdened with who knows how many other actions to declare the Uarco patent invalid?

The filing of the two declaratory judgment actions is evidence that the patent bar, as much as litigants, requires guidance on the issue of obviousness under 35 U.S.C. § 103. While most Courts of Appeals are in substantial uniformity in their treatment of other issues, e.g., public use and on sale (35 U.S.C. § 102(b)), it is concerning obviousness or invention that they differ so widely, from the highly pro-patent Seventh Circuit to the highly anti-patent Eighth Circuit. Is it fair to the patent bar and litigants to have that most common issue, obviousness, turn on a race to the Courthouse? Yet if this Supreme Court does not review decisions on obviousness—hopefully once a term—how can a patent attorney advise his client with any degree of certitude? There is no record of how much needless litigation has flooded the courts, and patent litigation consumes huge amounts of court time disproportionate to the mere number of actions, simply because patent counsel cannot make a reasonable guess on what will happen to the issue of obviousness, depending on where the action is brought.

Certainly this Court's time must be devoted to other matters of greater importance to this country, but can

it not spare time for one patent decision per term on the issue of obviousness? This should be that case, because the subject matter is as simple as a roll of perforated stamps. In view of the extreme differences among the circuits, the patent bar and those concerned with patents urgently need this Court's ultimate supervision.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is based on the discovery by petitioner of *Transkrit Corp.* v. *Uarco Inc.*, not known to counsel for petitioner until after the denial of certiorari by this Court on October 12, 1971.

JAMES H. MARSH, JR.